Dec 20 1877

S. F. Miller

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# TRANSCRIPT OF RECORD.

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## SUPREME COURT OF THE UNITED STATES.

## No. 145.

THOMAS S. DOBBINS, PLAINTIFF IN ERROR,

VS.

THE UNITED STATES.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR THE DISTRICT OF IOWA.

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**FILED SEPTEMBER 29, 1875.**

Dec 22 1877

A. G. Riddle

[illegible]

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1, 2, 3 Pleas in the circuit court of the United States of America for the district of Iowa, at a term thereof begun and holden at the United States court-room, in the city of Des Moines, in the State of Iowa, and district aforesaid, on the second Monday of October, the same being the 12th day of October, A. D. 1873, before the Hon. Jno. F. Dillon, United States circuit judge for the eighth circuit, and Hon. James M. Love, United States district judge for said district of Iowa.

4 Be it remembered that heretofore, to wit, on the 12th day of December, 1874, there was filed in said clerk's office a writ of error, which said writ of error is in the words and figures following, to wit:

5 UNITED STATES OF AMERICA, *ss:*

The President of the United States of America to the judges of the circuit court of the United States for the district of Iowa, greeting: Because in the record and proceedings, as also in the rendition of a judgment in a plea which is in said circuit court before you, between Thomas S. Dobbins, claimant, &c., and the United States, a manifest error hath happened, to the great damage of the said Thomas S. Dobbins, as by his complaint appears; and we, being willing that the error, if any there hath been, should be duly corrected, and full and speedy justice done to the parties aforesaid in this behalf, do command you, if judgment be therein given, that then, under your seal, distinctly and openly, you send the record and proceedings aforesaid, with all things concerning the same, to the Supreme Court of the United States, together with this writ, so that you have the same at Washington
6 on second Monday October next, 1875, in the Supreme Court to be then and there held, that, the record and proceedings aforesaid being inspected, the Supreme Court may cause further to be done therein to correct that error what of right and according to the law and custom of the United States should be done.

Witness the honorable Morrison R. Waite, Chief-Justice of the said Supreme Court of the United States, this day of October, in the year of our Lord eighteen hundred & seventy-four, and of the Independence of the United States the 99th.

[SEAL] (S'g'd) GEORGE B. CORKHILL,
*Clerk C. C. U. S., Dist. of Iowa.*

Allowed by

JOHN F. DILLON.

(Endorsed:) Filed Dec. 12, 1874. George B. Corkhill, clerk.

7 In obedience to the foregoing writ of error, I, George B. Corkhill, clerk of the circuit court of the United States for the district of Iowa, do hereby certify and return that hereto annexed is a full, true, and complete copy of the record and proceedings, and all things concerning the same, in a certain cause wherein The United States is plaintiff, and Lot 1, Block 2, Comanchee, Iowa, and other property, and Thomas S. Dobbins and others are defendants, as full, true, and complete as the originals of the same now remain on file and of record in my office.

I further certify and return that the original citation, with the return of service endorsed thereon, is hereto attached.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, at my office in Des Moines, in said district, this the 9th day of March, A. D. 1875.

[SEAL.] GEORGE B. CORKHILL,
*Clerk United States Circuit Court, District of Iowa.*

8 UNITED STATES OF AMERICA:

In the circuit court for said district.

Before the honorable John F. Dillon, judge of said circuit court.

Be it remembered that on this 19th day of Jan'y, A. D. 1874, comes
James T. Lane, attorney of the United States for the said dis-
9 trict of Iowa, in a cause of seizure on land, under the internal-
revenue law of the United States, and informs the court that N. Boardman, collector of internal revenue for the second collection district of the State of Iowa, heretofore, to wit, on the 18th day of December, A. D. 1873, on land at Comanche, in the county of Clinton, in the State of Iowa, within the district of Iowa, and within the jurisdiction of the said court, did seize the following-described property, consisting of the real estate, buildings, houses, cisterns, goods, wares, merchandise, packages, raw materials, apparatus, boilers, engines, implements, horses, wagons, tools, &c., that is to say:

Lot No. one (1) in block No. two, (2,) except such part of said lot one (1) conveyed by James Neil and Julia, his wife, to Mary C. Litting, by deed dated April 5, 1865, and recorded May 1st, 1865, in book No. two
(2) of deeds, in the recorder's office, in said Clinton County, Iowa.
10 Also the east half (½) of lot No. two (2) in said block No. two,
(2,) except that part of the same conveyed in said deed to said Litting.

Also the west half (½) of said lot No. two (2) in said block No. two, (2,) except 197 feet off the front part of said lot on Eagle street, according to the survey of Augustus Brion, of the said village (now city) of Comanche.

Also lot No. four (4) in block No. six, (6,) range two, (2,) and the water-lots on the Mississippi River opposite to and of equal width with said lot No. four (4) in block No. six, (6,) range two, (2;) and also opposite to and of equal width with lots Nos. two (2) and three (3) in the said block No. (6,) six, range two, (2.) All of said property being in and a part of said village (now city) of Comanche, in Clinton County
and State of Iowa, and being the same property leased by Thomas
11 S. Dobbins to Samuel H. Nissley for use as a distillery.

Also, the flour-mill, distillery, bonded warehouse, boiler and engine house, cistern-house, office, corn-crib, barn, and all other buildings thereon standing, and the machinery, still, wash-tub, engine, boilers, and all the appurtenances, fixtures, appliances, tools, and implements contained in and appertaining or belonging thereto.

Also, eight (8) wooden fermenting-tubs, three (3) lumber-wagons, one 1-horse delivery-wagon; one dump-cart, and harness to same; one set of bob-sleds, three (3) sorrel horses, two sets double and one set single harness, one wheelbarrow, three (3) fire hooks and pokers, three (3) scoop-shovels; one and one-half (1½) tons of lump coal; (estimated) twenty tons (20) slack coal, six (6) cords of pine strips, one cob-rake, one clipper fanning-mill, 280 fire-bricks, one stair-ladder; one iron bevel-
cog wheel, detached; one piece of shafting 6 feet long; one flue-
12 cleaner: (20) twenty bu. rye, (estimated,) one (1) bin: fifty (50)

bu. oats, (estimated,) 2 bins; fifty (50) bu. shelled corn, basement-sink; twenty-five (25) bu. of shelled corn, chest; forty-five (45) seamless sacks, one coil of old rope, three (3) baskets, thirty-two (32) steel mill-picks, four (4) wooden detached bolt-wheels, two (2) wooden detached conveyers, two (2) heating coal-stoves and pipes; twelve thousand (12,000) lbs (estimated) shorts, sixty bushels (estimated) malt; one hundred and seventy (170) bushels of corn-meal; one set of Fairbanks No. 8 platform scales; one set of Fairbanks 6,000-lbs. steelyards; one set of Fairbanks 1700-lbs. steelyards; six (6) detached cog-wheels; two (2) old smutters; two (2) pieces of gass-pipe, bow-shape; sixty feet (60) (two sections) rubber hose 1½-inch; fifty (50) feet (one section) rubber hose, 1 inch; one hoe; one water-pail; one tin yeast-can; two (2) pipe-wrenches; one monkey-wrench; one sledge; one half-barrel of machine-oil; one fire sample meter; one copper hand-pump; one jack-screw; two (2) bung-borers; one cooper's adz'; one tin thief;
13 one hoop-driver; one coopers' scraper; one *coal*-chisel; one wagon-chain; one crow-bar; one heating coal-stove and pipe; two (2) bars babbit metal; one desk; one scoop-shovel; one set of hay-scales; fourteen (14) empty new barrels and two old empty barrels; one half-barrel of comp'n roofing; one old boiler, in yard; six (6) barrels containing rectified spirits, not full; one keg containing rectified spirits, not full; eight barrels containing rectified spirits, not full; ten empty (5-gal.) kegs; one empty barrel; one lot of harness-straps; one lot leather fly-nets; one buggy-top; one tin pump; one thousand bushels (estimated) corn in A. A. Wagner's crib, Comanche; two thousand (2,000) bushels (estimated) corn in crib of William Echerman's, Comanche; fifteen hundred bushels (estimated) corn in Joe Smaller's crib, Comanche; fifteen (1,500) hundred bushels (estimated) rye in George Tong's warehouse; one new doubler in George Tong's warehouse. The above cribs and warehouse' are situated outside of the described distillery prem-
14 ises in said city of Comanche, Iowa, but were used in connection with said distillery. Thirteen (13) pieces of pine timber, 6 x 12, 10 to 14 f't long; one hundred and twenty-nine (129) barrels of high wines in bonded warehouse, containing 5,839½ wine gallons and 7,895.49 proof gallons.

*Rectifying department.*

The leeches, cisterns, fixtures, and appurtenances therein contained and thereunto belonging; fifteen (15) empty barrels; one barrel containing high wines, (not full;) two (2) barrels containing rectified spirits, (not full;) three (3) barrels containing rectified spirits, (not full;) three (3) barrels containing cherry-bounce (not full;) one tin can and keg of coloring matter; about ten (10) bbls. rectified spirits in the cisterns and leeches; one thousand (1,000) bushels (estimated) ear-corn in A. A. Wagner's crib; one single buggy in George Tong's warehouse; one hundred and five (105) empty barrels in George Tong's warehouse; one gray horse, one sett of single harness, one buggy-cushion, one whip, all
15 in barn of William Hacts; one lot of still timber in Dillon's yard; one single delivery-wagon, in hands of John Rodder; all of said property being owned and used in operating said distillery, and in connection therewith and belonging thereto; also one hay-shed, situated on the Beudeef lot, near said distillery premises; three (3) ricks of hay & straw, situated on property owned by Tho's S. Dobbins, west of the cattle-sheds, containing, by estimation, one hundred (100) tons.

One rick of hay estimated at fifty (50) tons on lot of M'r's Vogle; all of said sheds and ricks of hay & straw being & used in connection and in operating said distillery. All of said property said to belong to Samuel H. Nissly.

And the said A. Boardman, collector as aforesaid, now has the same in his custody within said district of Iowa as forfeited to the United States for the following causes, to wit:

16 1. That Samuel H. Nissly, or other person or persons to the said
attorney unknown, made and distilled spirits at the said distillery
in Comanche, Clinton County, Iowa, and owned said stills, boilers, and other vessels so used under his or their superintendance, as agent or agents, owner or owners, and used such still, boilers, and other vessels, which said person and persons neglected and refused to make and cause to be made from day to day in a book and books kept by him and them in form prescribed by the Commissioner of Internal Revenue, true and exact entries of the number of gallons of spirits distilled, and of the number of gallons placed in warehouse, and of the proof thereof, and of the number of gallons sold and removed, with proof thereof, and of the name, place of business, and residence of the person or persons
to whom said spirits were sold. And that said person or persons
17 did make false entries in said books in each and all of the fore-
going particulars, and did omit entries therefrom with the intent
to defraud and conceal from the revenue officers certain facts and particulars therein referred to required to be stated and entered in such books, and to mislead in reference thereto, and did cancel, obliterate, and destroy said books, and a portion of said books, and certain entries therein, and did permit the same to be done with intent to defraud, and did neglect and refuse to produce and to cause to be produced said books, and each of them, when required by a certain revenue officer, against the 19th section of the act of Congress entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20, 1868, and acts amendatory thereof.

2. That the said distilled spirits and wines and the said stills
18 and other apparatus, then and there being fit and intended to be
used for the distillation of spirits within the meaning of the in-
internal-revenue laws, were owned by one Samuel H. Nissly, and a person or persons to said attorney unknown, which said person and persons engaged in and carried on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by such person or persons, against the 44' section of said last-mentioned act.

3. That the said distilled spirits, wines, and personal property were found in a certain distillery, and in a certain building, room, yard, and enclosures connected therewith, and used with and constituting a part of the premises, and that one Sam'l H. Nissly, and other person or persons to said attorney unknown, did carry on the business of a distiller
with intent to defraud the United States of the tax on the spirits
19 distilled by said person or persons, against the 44' section of said
last-mentioned act.

4. That the said distillery and distilling apparatus were used by one Samuel H. Nissly, and other person or persons to said attorney unknown, and the said distilled spirits and said raw materials for the production of distilled spirits were found in the said distillery and on the said distillery premises so used by said person or persons, which said person or persons engaged in carrying on the business of a distiller at said distillery, and, while so engaged in carrying on the said business of a distiller on said premises at said distillery, did attempt to defraud the United States of the tax on the spirits distilled by him or them,

and did defraud the United States of the tax on part of the spirits distilled by him or them, against the 5th section of the act of Congress approved the 31st day of March, 1868.

20 5. That prior to said seizure, taxes were imposed by the provisions of law upon the said distilled spirits, and the same, being so subject to the payment of taxes as aforesaid, were found by the said N. Boardman, collector, in the possession and custody and within the control of said Samuel H. Nissly, and other person or persons to said attorney unknown, for the purpose of being sold and removed by said person or persons in fraud of the internal-revenue laws, and with design to avoid payment of said taxes, against the 48' section of the act of Congress approved June 30, 1864, entitled "An act to provide internal revenue to support the Government, to pay interest on the public debt, and for other purposes," as amended by act of July 13th, 1866.

6th. That the said corn, rye, shorts, malt, corn-meal, &c., then and
there being articles of raw material, were found in the possession
21 of said S. H. Nissly, and other person or persons unknown to the
said attorney, the said person or persons then and there intending to manufacture the same into articles of a kind subject to a tax, for the purpose of fraudulently selling such manufactured article, and with design to evade the payment of said tax, against the 48' section aforementioned as amended as aforesaid.

7. That the said tools, implements, instruments, and personal property were found in the place or building, and within certain yards and enclosures where said distilled spirits and said raw materials were found as aforesaid, whereby they became liable to forfeiture by the provisions of the 48' section aforesaid as amended as aforesaid.

8. That the said vessels, boats, carts, carriages, and convey-
22 ances, and the said horses and other animals, and said wagons,
sleds, buggies, carts, drays, harness, and tackle, &c., were used in the removal and for the deposit and concealment of said goods and commodities, consisting of distilled spirits, said goods and commodities then and there being forfeited to the United States, against the said 14' section of the said act of July 13th, 1866.

9. That the said barrels, vessels, and packages were sold and given, and purchased and received, to and by some person or persons to said attorney unknown, the said barrels, vessels, and packages then and there being stamped, branded, and marked in such a way as to show that the contents and intended contents thereof had been duly inspected, and that the tax thereon had been paid, and that the provisions of the in-
ternal-revenue laws had been complied with; the said barrels,
23 vessels, and packages then and there being empty; and that the
said barrels, vessels, and packages sold, given, purchased, and received as aforesaid, and stamped, branded, and marked as aforesaid, contained other than the contents which were therein when said articles were so stamped, branded, and marked, contrary to the 16th section of said act of July 13, 1866.

10. That said distilled spirits were found elsewhere than in a distillery and in a distillery-warehouse, not having been removed therefrom according to law, against the 36th section of the act of Congress entitled "An act imposing taxes on distilled spirits and tobacco, and for other purposes," approved July 20th, 1866.

11. That the said distilled spirits were removed in casks and
24 packages, containing more than ten gallons each, from the prem-
ises and buildings in which the same had been distilled, redistilled, rectified, compounded, manufactured, and stored, at certain times

other than after sunrising and before sunsetting, and that the said vessels contained the same, and said horses, carts, boats, and conveyances were used in the removal thereof, against the 37' section of said last-mentioned act.

12. That a person or persons to said attorney unknown emptied and drew off, and caused to be emptied and drawn off, distilled spirits from said casks and packages, the same being then and there, bearing certain marks, brands, and stamps required by law, and at the time of so emptying said casks and packages the said marks, brands, and stamps were not effaced and obliterated as required by law, against the 43' section of said last-mentioned act.

25 13th. That the carts, drays, wagons, vehicles, and said horses and animals were used in carrying and transporting certain empty casks and packages, and parts thereof, having thereon certain brands, marks, and stamps required by law to be placed on casks and packages containing distilled spirits, against the 43' section of said last-mentioned act.

14. That the said personal property was owned by and was found in the possession of some person or persons to said attorney unknown, in a certain building, yard, and enclosures, which said person or persons permitted and suffered the said building, yard, and enclosures to be used for purposes of ingress and egress to and from a certain distillery at Comanche, in Clinton County, Iowa, wherein some person or
26 persons to said attorney unknown did carry on the business of a distillery without having paid the special tax as required by law, and without having given bond as required by law, and with intent to defraud the United States of the tax on the spirts distilled by said person or persons, against the 44' section of said last-mentioned act.

15. That a person or persons to said attorney unknown, then and there carrying on the business of a distiller and rectifier, did knowingly and wilfully omit, neglect, and refuse to do and cause to be done any and every of the things required by law in the carrying on and conducting of the said business, which said person and persons owned and had an interest as owner in said distilled spirits and liquors, against the 96' section of said last-mentioned act.

27 16. That a person or persons to said attorney unknown, then and there carrying on the business of a distiller and rectifier, did and committed acts prohibited by the said act of Congress approved the 20' day of July, 1868, which said person and persons owned and had an interest as owner in the said distilled spirits and liquors, against the 96' section of said last-mentioned act.

And the said attorney of the United States, on behalf of the said United States, saith that all and singular the premises are true, and that by reason thereof, and by force of the statutes in such case made and provided, the aforementioned property, goods, wares, and merchandise, &c., as hereinbefore set forth, became and are forfeited to the use of the United States as in said statutes provided.

Wherefore he prays that the usual process and monition of this
28 honorable court issue in this behalf, and that all persons interested in the said property, goods, and wares & merchandise, &c., may be cited and admonished in general and special to answer the premises, and all the due proceedings being had thereon, that for the cause aforesaid, and others appearing, the said property, goods, wares, and merchandise, as before set forth, be condemned by the definite sentence and decree of this honorable court as forfeited to the use of the

United States according to the form of the statutes of the United States in such cases made and provided.

(S'g'd) **JAMES T. LANE,**
*United States District Att'y for the District of Iowa.*

(Endorsed:) No. 1768. United States vs. Lot 1, Block 2, Comanche, Iowa, & distillery & other property. Libel of information. Filed Feb'y 11, 1874. George B. Corkhill, clerk.

29 In obedience to the within warrant, I have taken possession of the property described in the within warrant, and have cited all persons having or pretending to have any right, title, or interest therein, as by the said warrant I am commanded to do.

Dated this 29th day of May, A. D. 1874.

PETER MELENDY, *U. S. M.*,
By S. S. ETHERIDGE, *Deputy.*

| | | |
|---|---|---|
| 30 | Services | $2 00 |
| | Mileage | 18 00 |
| | Proclamation | 30 |
| | Posting notices | 10 00 |
| | | $30 30 |
| | Posting notices | 3 00 |
| | | $33 30 |

*Notice.*

In the circuit court of the United States for the district of Iowa.

To whom it may concern notice is hereby given that, under and by virtue of a warrant of seizure to me directed and issued out of the office of the clerk of the United States circuit court for the district of Iowa, upon the information of James T. Lane, district attorney of the United States in and for said district, I have seized upon the
31 following property in said libel more particularly described, to wit:

The real estate in the city of Comanche, Clinton County, Iowa, leased by Tho's S. Dobbins to Sam'l H. Nissly for use as a distillery; also the flour-mill, distillery, bonded warehouse, boiler and engine house, cistern-house, office, corn-cribs, barn, and all other buildings thereon standing, and the machinery, stills, mash-tubs, engines, boilers, and all the appurtenances, fixtures, appliances, tools, and implements contained and appertaining or belonging thereto.

Also, all fermenting-tubs, wagons, horses, harness, sleds, wheelbarrows, picks, shovels, rakes, fanning-mills, ladders, coal, corn, oats, rye, barley, shorts, malt, corn-meal, sacks, scales, steelyards, ropes, baskets, stoves, hose, buckets, yeast, pans, wrenches, oil-metre, cog-wheels, scrapers, boilers, kegs rectified spirits, high-wines, cherry-bounce,
32 cisterns, and appurtenances contained in the rectifying department and thereunto belonging; a lot of corn in A. A. Wagner's crib, a lot of corn in William Eckerman's crib, a lot of corn in Joe Smaller's crib, a lot of rye in George Tong's warehouse, all in Comanche, Iowa.

And all persons claiming the property above described, or knowing or having anything to say why the court should not pronounce against the same according to the prayer of said information of libel, are hereby notified to be and appear before said court at Des Moines, Iowa, on the first day of June, 1874, at ten o'clock a. m., then and there to interpose a claim and to make allegations in that behalf.

PETER MELENDY,
*U. S. Mar.*
S. S. ETHERIDGE,
*Deputy.*

33 THE UNITED STATES OF AMERICA,
*District of Iowa:*

The President of the United States of America to the marshal of said district, greeting:

Whereas an information of libel hath been filed in our circuit court of
the United States for the district of Iowa, on the (11th) eleventh
34 day of February, 1874, by James T. Lane, attorney for the United
States for said district, as well *as* for the United States as for
such other person or persons as may be entitled to a moiety of the forfeiture thereinafter mentioned as against the following-described property, to wit, lot No. (1) one in block No. (2) two, except such part of said lot (1) conveyed by James Neil and Julia, his wife, to Mary C. Littig by deed dated April 5, 1865, and recorded May 1st, 1865, in book No. (2) two of deeds in the recorder's office in said Clinton County, Iowa; also the east (½) half of lot No. (2) two in said block No. two, (2,) except that part of the same conveyed in said deed to said Littig.

Also the west ½ of said lot No. (2) two in said block No. (2) two, except 197 feet off the front part of said lot on Eagle street, according to the survey of Augustus Brion of the said village (now city) of Comanche.

Also lot No. (4) four in block No. (6) six, range two, (2,) and the
water-lots on the Mississippi River opposite to and of equal width
35 with said lot No. four (4) in block No. six, (6,) range No. (2) two,
and also opposite to and of equal width with lots No. two (2) and
three (3) in the said block No. six, (6,) range No. two, (2,) all of said property being in and a part of said village (now city) of Comanche, Clinton County, Iowa, and being the same property leased by Tho's S. Dobbins to Samuel H. Nissly for use as a distillery. Also the flour-mill, distillery, bonded warehouse, boiler and engine house, cistern-house, office, corn-cribs, barn, and all other buildings thereon standing, and the machinery, still, mash-tubs, engines, boilers, and all the appurtenances, fixtures, appliances, tools, and implements contained in and appertaining or belonging thereto. Also eight (8) wooden fermenting-tubs, three lumber-wagons, one 1-horse delivery-wagon; one dump cart, and harness to same; one set of bob-sleds, three (3) sorre*ll* horses; two (2) sets double and 1 set of single harness; one wheelbarrow, three fire hooks and pokers; three scoop-shovels; one and one-half tons lump coal, (estimated;) 20 tons
slack coal, 6 cords pine strips, one cob-rake, one clipper fanning-
36 mill, 280 fire-bricks, one stair-ladder, one iron bevel cog-wheel,
detached; one piece shafting, 6 feet long; one flue-cleaner, twenty
bushels rye, (estimated;) 1 bin; fifty bushels of oats, (estimated) (*estimated ;*) 50 bushels of shelled corn, basement-sink; twenty-five bushels shelled corn, chest; forty-five seamless sacks; one coil old rope, three baskets, thirty-two steel mill-picks, four wooden detached bolt-wheels, two wooden detached conveyers, (2) two heating coal-stoves and pipes,

(12,000) twelve thousand lbs. (estimated) shorts, sixty bushels (estimated) malt, one hundred and seventy bushels corn-meal, one No. 8 Fairbanks platform-scales, one set Fairbanks 6,000-lbs. steelyards, one set Fairbanks 1,700-lbs. steelyards, six detached cog-wheels, (2) two old smutters, two pieces gas-pipe, bow shape; sixty feet (two sections) 1½-in. rubber hose, fifty feet (1 section) 1-in. rubber hose, one hoe, one water-pail, one tin yeast-can, two pipe-wrenches, one monkey-
37 wrench, one sledge, one half bbl. machine-oil, one fire sample
metre, one copper hand-pump, one jack-screw, two bung-borers, one cooper's adz, one tin thief, one hoop-driver, one cooper's scraper, one cold-chisel, one wagon-chain, one crowbar; 1 heating coal-stove & pipe, two bars babbit' metal, one desk, one scoop-shovel, one set hay-scales, fourteen empty barrels, new, and two old empty barrels; one half bbl. comp'n roofing, one old boiler in yard; six barrels containing rectified spirits, (not full;) one keg containing rectified spirits, not full; eight barrels containing rectified spirits, not full; ten empty 5-gal. kegs; one empty barrel, lot of harness-straps, one lot leather fly-nets, one buggy-top, one tin pump, one thousand bushels (estimated) in A. A. Wagner's crib, Comanche; two thousand bushels of corn in crib of W'm Eckerman, Comanche; fifteen hundred bushels corn in Joe Smaller's crib, Comanche; fifteen hundred bushels rye in George Tongs' warehouse.

38 The above cribs and warehouse are situated outside of the described distillery premises in said city of Comanche, but were used in connection with said distillery. 13 pieces pine timber, six × twelve, 10 to 14 f't long; one hundred and twenty-nine barrels of high-wines in bonded warehouse, containing 5,839½ wine-gallons and 7,895.49 proof-gallons.

The leeches, cisterns, and appurtenances contained in the rectifying department and thereunto belonging; fifteen empty barrels; one barrel of high-wines, (not full;) two barrels containing rectified spirits; three barrels rectified spirits, (not full;) three barrels containing cherry bounce, (not full:) 1 tin can and keg of coloring matter, about ten barrels rectified spirits in the cisterns and leeches, one thousand bushels of corn in A. A. Wagner's crib, one single buggy in George Tongs' warehouse, one hundred and five barrels in George Tongs' warehouse, one
39 gray horse, 1 set single harness, one buggy-cushion—all in barn
of W'm Haets; one lot still timber, in Dillon's yard; one single delivery-wagon, in hands of John Rodder. All of said property being owned and used in operating said distillery. One hay-shed situated on the Beudeef.

Lot near said distillery premises, three ricks of hay & straw, situated on property owned by Tho's S. Dobbins, west of cattle-shed.

One rick of hay on lot of M'r's Vogle. For reasons and causes in said information mentioned, and praying the usual process and monition of said court in that behalf to be made, and that all persons having or pretending to have any right, title, or interest therein may be cited to appear and answer all and singular the matters in said libel articulately propounded, and that the court would be pleased to pronounce for the condemnation and forfeiture of said property above described, and the damages alleged in said information of libel, besides costs of suit.

40 You are therefore commanded to attach the property above described, and to detain the same in your custody and control until the further order of this court respecting the same, and to give notice in the Iowa State Register, a newspaper printed in the city of

Des Moines, for fourteen days, at or near the place of trial of such seizure, and to give information to all persons claiming the said above-described property, or knowing or having anything to say why the court should not pronounce against the same, according to the prayer of said information of libel, and that they be and appear before the said court, at a regular term thereof, to be holden at the city of Des Moines, in said district of Iowa, commencing on the second Monday, the same being the 11th day of May, A. D. 1874, at the United States court-house in said city, at ten o'clock a. m., then and there to inter-
41 pose a claim and to make allegations in that behalf; and what you have done in the premises do you then and there make return, together with this writ.

Witness the Hon. Morrison R. Waite, Chief-Justice of the U. S. Supreme Court, at Des Moines, in said district, this 11th day of February, A. D. 1874, and in the 98th year of our Independence.

[SEAL.] GEORGE B. CORKHILL,
*Clerk U. S. Circuit C't, Dist. of Iowa.*

42 Received the within monition on the 13th Feb'y, 1874, and was served by seizing the property named in receipt herewith attached, at Comanche, on the 18th or 19th day of February, 1874.

PETER MELENDY,
By J. G. SHATTUCK,
*Spec. Deputy Mar.*

(Endorsed:) Filed May 29, 1874. George B. Corkhill, clerk.

43 *Exhibit A.—Writ of attachment.*

STATE OF IOWA,
*Clinton County, ss:*

The State of Iowa to the sherriff of said county, greeting:

Whereas the Clinton Nat'l Bank this day filed in the office of the clerk of the circuit court, in and for Clinton County, a petition under oath, and also a bond for the use of S. H. Nissly, with sureties approved by the clerk in conformity with the statute in such cases made and provided, setting forth in said petition that S. H. Nissly, as the affiant verily believes, is indebted to said Clinton National Bank in the sum of $540.60 on contract, with interest on the same at the rate of 6 per cent. per annum from the 18th day of December, A. D. 1873, and that said defendant has absconded, so that ordinary process cannot be served upon him:

These are, therefore, to command you to attach property of said S. H.
44 Nissly wherever the same may be found in your county, or so much thereof as may be sufficient and necessary to satisfy the above amount stated, and safely preserve and deal with said property, and to summon such persons as garnishees as you may be required in the premises, and make due return of your doings in the premises to the circuit court of Clinton County on or before the first day of the next term thereof.

Witness Charles W. Chase, clerk of the circuit court of Clinton County, and the seal of said court hereunto affixed, at his office, in the city of Clinton, in said county, on this 18th day of Dec., A. D. 1873.

[L. S.] CHARLES W. CHASE, *Clerk.*

45 STATE OF IOWA,
*Clinton County:*

I, C. H. Inguerson, sherriff of said county, hereby certify and return, that I received the within writ of attachment for service on the 18th day of Dec., 1873, at thirty minutes past two o'clock in the afternoon, and that I did, by virtue thereof, on said day, at thirty minutes past 3 o'clock in the afternoon, attach (subject to the attachment made by me by virtue of a writ of attachment in my hands in favor of Frank Rice against S. H. Nissly,) the following-described property of said Nissly, to wit, (5) five bins of rye, and being all the rye in bins 1, 2, 3, 4, and 5, in George Tong's warehouse, situated on lot 2, block 5, range 1, in the city of Comanche, in said county; also, one crib of corn, supposed to contain about 1,500 bushels of corn, more or less, and being the corn in 46 the crib known as the smaller crib, situated on lot 34, block 4, in said city, and I did also, at the same time, attach on this writ, (subject to an attachment made by me by virtue of a writ of attachment in my hands in favor of B. B. Shutts against S. H. Nissly,) one crib of corn, and being the corn in the crib known as the Eckman crib, on lot 6, block 13, range 2, in said city, supposed to contain two thousand bushels, more or less; also, the corn in a crib on lot 2, in block 6, range 1, in said city, supposed to be about a thousand bushels, more or less.

Dated Dec. 18, 1873.

C. H. INGUERSON,
*Sherriff, Clinton County, Iowa,*
By R. S. SEAMAN, *Deputy.*

Sherriff's fees, $2.50. Paid by plaintiff.

47 *Exhibit B.—Writ of attachment.*

STATE OF IOWA,
*Clinton County, ss:*

The State of Iowa to the sherriff of said county, greeting:

Whereas B. B. Shutts this day filed in the office of the clerk of the circuit court in and for Clinton County a petition, under oath, and also a bond for the use of S. H. Nissly, with sureties approved by the clerk, in conformity with the statute in such case made and provided, setting forth in said petition that said S. H. Nissly, as the affiant verily believes, is indebted to said B. B. Shutts in the sum of six hundred dollars, on contract, with interest on the same at the rate of six per cent. per annum from the 14th day of Dec., A. D. 18 , and that said defendant has absconded, so that ordinary process cannot be served upon him:

These are, therefore, to command you to attach property of the said S. H. Nissly, wherever the same may be found in your county, or 48 so much thereof as may be sufficient and necessary to satisfy the above amount stated, and safely preserve and deal with said property, and to summons such persons as garnishees as you may be required in the premises, and make due return of your doings in the premises to the circuit court of Clinton County on or before the first day of the next term thereof.

Witness, Charles W. Chase, clerk of the circuit court of Clinton County, and the seal of said court hereunto affixed, at his office in the city of Clinton, in said county, on the 18th day of December, A. D. 1873.

CHA'S W. CHASE, *Clerk,*
By A. H. PADDOCK, *Deputy.*

49 STATE OF IOWA,
*Clinton County, ss:*

I, C. H. Inguerson, sherriff of said county, certify and return that I received the within writ of attachment for service on the 18th day of Dec., A. D. 1873, at 7 o'clock in the forenoon, and that I did, by virtue thereof, on said day, at nine o'clock, attach and take into my custody the following-described property of the within-named defendant, S. H. Nissly, to wit: one crib of corn, being the corn in the crib known as the Eckeman Crib, situated on lot 6, block 13, range 2, in the city of Comanche, in said county; said corn supposed to be about 2,000 bushels, more or less. Also, all the corn in a crib on lot 2, in block 6, range 1, in said city, supposed to be about 1,000 bushels of corn, more or less.

Dated Dec. 18, 1873.

C. H. INGUERSON,
*Sherriff of Clinton Co., Iowa,*
By R. S. SEAMAN, *Deputy.*

Sherriff's fees, $2.40. Paid by plaintiff.

50 *Exhibit C.—Writ of attachment.*

STATE OF IOWA,
*Clinton County, ss:*

The State of Iowa to the sherriff of said county, greeting:

Whereas Magill and Hart this day filed in the office of the clerk of the circuit court in and for Clinton County a petition, under oath, and also a bond for the use of S. H. Nissly, with sureties approved by the clerk in conformity with the statute in such case made and provided, setting forth in said petition that said S. H. Nissly, as the affiant verily believes, is indebted to said Magill & Hart in the sum of $\$221\frac{25}{100}$, on contract, with interest on the same at the rate of six per cent. per annum from the 18th day of Dec., A. D. 1873, and that said defendant has absconded, so that ordinary process cannot be served upon him:

These are therefore to command you to attach property of the said S. H. Nissly, wherever the same may be found in your county, or
51 so much thereof as may be sufficient and necessary to satisfy the
above amount stated, and safely preserve and deal with said property; and to summon such persons as garnishees as you may be required in the premises, and make due return of your doings in the premises to the circuit court of Clinton County on or before the first day of the next term thereof.

Witness, Charles W. Chase, clerk of the circuit court of Clinton County, and the seal of said court hereunto affixed, at his office, in the city of Clinton, in said county, on this 18th day of Dec., A. D. 1873.

CHA'S W. CHASE, *Clerk.*

52 STATE OF IOWA,
*Clinton County, ss:*

I, C. H. Inguerson, sherriff of said county, hereby certify and return that I received the within writ of attachment for service on the 18th day of December, A. D. 1873, at 3 o'clock in the afternoon, and that I did, by virtue thereof, on said day, at four o'clock in the afternoon, attach subject to attachments this day made by me, by virtue of three writs of attachment in my hands, one in favor of Frank Rice vs. S. H. Nissly, one in favor of B. B. Shutts vs. said S. H. Nissly, and one in favor of the Clinton National Bank vs. said S. H. Nissly, the following de-

scribed property of said Nissly, to wit: 5 bins of rye, and being all the rye in bins 1, 2, 3, 4, & 5, in George Tong's warehouse, on lot 2, block 5, range 1, in the city of Comanche in said county, one crib of corn, and being all the corn, and supposed to be about 1,500 bushels, more or less, in the crib known as the Smaller crib, on lot 34, block 4,
53 in said city; one crib of corn, and being all the corn in the crib, known as the Eckeman crib, on lot 6, block 13, range 2, in said city, & supposed to be about two thousand bushels, more or less; and all the corn in a crib on lot 2 in block 6, range 1, in said city, & supposed to be about one thousand bushels, more or less.

Dated Dec. 18, 1873.

C. H. INGUERSON,
*Sherriff of said county.*
By R. S. SEAMEN, *Deputy.*

Sherriff's fee, 2.50. Paid by Hoyes & Young.

54 *Exhibit D.—Writ of attachment.*

STATE OF IOWA,
*Clinton County*, *ss:*

The State of Iowa to the sherriff of said county, greeting:

Whereas Frank Rice this day filed in the office of the clerk of the circuit court, in and for Clinton County, a petition under oath, and also a bond for the use of S. H. Nissly, with sureties approved by the clerk in conformity with the statute in such case made and provided, setting forth in said petition that said S. H. Nissly, as the affiant verily believes, is indebted to said Frank Rice in the sum of one thousand dollars on contract, with interest on the same at the rate of 6 per cent. per annum, from the 17 day of December, A. D. 1873, and that said defendant has absconded so that the ordinary process cannot be served upon him:

These are therefore to command you to attach property of the said S. H. Nissly, wherever the same may be found in your county, or so
55 much thereof as may be sufficient and necessary to satisfy the above amount stated, and safely preserve and deal with said property, and to summon such persons as garnishees as you may be required in the premises, and make due return of your doings in the premises to the circuit court of Clinton County, on or before the first day of the next term thereof.

Witness Charles W. Chase, clerk of the circuit court of Clinton County, and the seal of said court hereunto affixed at his office in the city of Clinton in said county, on this 17' day of December, 1873.

[L. S.]
CHA'S W. CHASE, *Clerk,*
By H. W. PADDOCK, *Deputy.*

56 STATE OF IOWA,
*Clinton County*, *ss:*

I, C. H. Ingnerson, sherriff of said county, certify and return that I received the within writ of attachment for service on the 18th day of December, A. D. 1873, at seven o'clock in the forenoon, and that I did on said day, at nine o'clock in the forenoon, by virtue of said attachment, attach and take into my custody the following described property of the within-named defendant, S. H. Nissly, to wit: five bins ot rye, and being all the rye in bins 1, 2, 3, 4, and 5, in George Tong's warehouse, situated on lot 2, block 5, range 1, in the city of Comanche in said county; also one crib of corn supposed to contain about 1,500 bushels of corn, more or less, and being all the corn in the crib known as the Smaller crib, situated on lot No. 34, block 4, in said city.

Dated this 18 day of Dec., 1873.

57 C. H. INGUERSON,
*Sherriff of Clinton Co., Iowa.*
R. S. SEAMEN, *Deputy.*

Sherriff's fee, $2.40. Paid by plaintiff.

58 Exhibit E.

STATE OF IOWA,
*Clinton County, ss:*

Be it remembered that heretofore, to wit, at a term of the circuit court of the State of , begun and held at Clinton, in and for said county, on the first Monday in January, A. D. 1874, present the Hon. Daniel W. Ellis, judge of the circuit court of the seventh judicial district of the State of Iowa, J. H. Walliker, sherriff of said county, and C. W. Chase, clerk of said court, and the following entitled cause
59 coming on to be heard on the 6th day of January, A. D. 1874, and still during said term of said court, the following, among other proceedings, were had therein, to wit:

THE CLINTON NATIONAL BANK
*vs.*
S. H. NISSLY.
} At law. January 6, 1874.

On this day this cause came on to be heard, and the plaintiff appeared by Hayes and Young, its attorneys, but the said defendant, although duly served with notice of the pendency of this suit according to law, and being three times solem'ly called in open court came not but made default, which default is here entered by order of the court, and the court having heard the proof finds for the plaintiff, and assesses its recovery at five hundred forty-three & $\frac{19}{100}$ dollars.

It is therefore ordered by the court that said plaintiff have and
60 recover of and from the said defendant the sum of five hundred forty-three and $\frac{19}{100}$ dollars damages, with interest at the rate of six per cent. per annum from this date, together with the costs of this suit, taxed at eight & $\frac{80}{100}$ dollars, and that special execution issue therefor against property attached and a general for residue, if any.

STATE OF IOWA,
*Clinton County, ss:*

I, C. W. Chase, clerk of the circuit court of the State of Iowa, in and for said county, do hereby certify that the above and foregoing is a true and perfect transcript of the record entry of judgment in the above-entitled cause as fully as the same remains on record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court at the court-house in the city of Clinton, in said
61 county, this 6th day of May, A. D. 1874.

[SEAL.] CHA'S W. CHASE,
*Clerk of said Court.*

62 *Exhibit F.*

THE STATE OF IOWA,
*Clinton County*, *ss:*

Be it remembered that heretofore, to wit, at a term of the circuit court for the State of Iowa, begun and held at Clinton, in and for said county, on the first Monday in Jan'y, A. D. 1874—present the Hon. Daniel W. Ellis, judge of the circuit court for the seventh judicial district of the State of Iowa; J. H. Walliker, sherriff of said county; and C. W. Chase, clerk of said court—and the following-entitled cause coming on to be heard on the 6th day of January, A. D. 1874, and still during said term of said court, the following among other proceedings were had therein, to wit:

B. B. SHEETTS
*vs.* } At law. Jan'y 6, 1874.
S. H. NISSLY.

On this day this cause came on to be heard, and the plaintiff 63 appeared by Hayes & Young, his attorney; but the said defendant, although duly served with notice of the pendency of this suit according to law, and being three times solemnly called in open court, came not, but made default; and the court, having heard the proof, finds for the plaintiff, and assesses the amount of his recovery at six hundred dollars.

It is therefore ordered by the court that the said plaintiff have and recover of and from the said defendant, S. H. Nissly, the sum of six hundred dollars damages, with interest at the rate of 6 per cent. per annum, together with the costs of this suit taxed at eight & $\frac{50}{100}$ dollars, and that a special execution issue therefor against property attached and a general execution for residue, if any.

THE STATE OF IOWA,
*Clinton County*, *ss:*

64 I, C. W. Chase, clerk of the circuit court of the State for the State of Iowa, in and for said county, do hereby certify that the above and foregoing is a true and perfect transcript of the record-entry of judgment in the above-entitled cause as fully as the same remains on record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the court-house in the city of Clinton, in said county, this 6th day of May, A. D. 1874.

[L. S.] CHA'S W. CHASE,
*Clerk of said Court.*

65 *Exhibit G.*

STATE OF IOWA,
*Clinton County*, *ss:*

Be it remembered that heretofore, to wit, at a term of the circuit court of the State of Iowa, begun and held at Clinton, in and for said county, on the first Monday in January, 1874—present the Hon. Daniel W. Ellis, judge of the circuit court of the 7th judicial district of the State of Iowa; J. H. Walliker, sherriff of said county; and C. W. 66 Chase, clerk of said court—and the following-entitled cause coming on to be heard on the 7th day of January, 1874, and still during said term of said court, the following among other proceedings were had therein, to wit:

MAGILL AND HART }
*vs.* } At law. January 7, 1874.
S. H. NISSLY. }

On this day this cause came on to be heard, and the plaintiff appeared by Hayes and Young, their attorneys; but the said defendant, although duly served with notice of the pendency of this suit according to law, and being three times solemnly called in open court, came not, but made default, which default is here entered by order of the court; and the court, having heard the proofs, finds for the plaintiff, and assesses the amount of their recovery at two hundred twenty-one & $\frac{25}{100}$ dollars.

67 It is therefore ordered by the court that the said plaintiff have and recover of and from the defendant, S. H. Nissly, the sum of two hundred and twenty-one $\frac{25}{100}$ dollars damages, with interest at the rate of 6 per cent. per annum from this date, together with the costs of this suit taxed at eight and $\frac{85}{100}$ dollars, and that special execution issue therefor against property attached and a general execution for residue, if any.

STATE OF IOWA,
*Clinton County, ss:*

I, C. W. Chase, clerk of the circuit court for the State of Iowa. in and for said county, do hereby certify that the above and foregoing is a true and perfect transcript of the record-entry of judgment in the above-entitled cause as fully as the same remains on record in my office.

68 In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the court-house in the city of Clinton, in said county, this 6 day of May, A. D. 1874.

[SEAL.] CHARLES W. CHASE,
*Clerk of said Court.*

69 *Exhibit H.*

THE STATE OF IOWA,
*Clinton County, ss:*

Be it remembered that heretofore, to wit, at a term of the circuit court of the State of Iowa, begun and held at Clinton, in and for said county, on the first Monday in January, A. D. 1874—present the Hon. Daniel W. Ellis, judge of the circuit court of the seventh judicial district
of the State of Iowa; J. H. Walliker, sherriff of said county; and
70 C. W. Chase, clerk of said court—and the following-entitled cause
coming on to be heard on the 6th day of January, A. D. 1874, and still during said term of said court, the following among other proceedings were had therein, to wit:

FRANK RICE }
*vs.* } At law. January 6, 1874.
S. H. NISSLY. }

On this day this cause came on to be heard, and the plaintiff appeared by Hayes & Young, his attorneys; and the said defendant, although duly served with notice of the pendency of this suit according to law, and being three times solemnly called in open court, came not, but made default; and the court, having heard all the proofs, finds for the plaintiff, and assesses the amount of his recovery at one thousand dollars.

It is therefore ordered by the court that the said plaintiff have and recover of and from the said defendant the sum of one thousand 71 dollars damages, with interest at the rate of six per cent. per annum from this date, with the costs of this suit taxed at eight and $\frac{50}{100}$ dollars, and that a special execution issue therefor against the property attached and a general for residue, if any.

THE STATE OF IOWA,
*Clinton County, ss:*

I, C. W. Chase, clerk of the circuit court for the State of Iowa, in and for said county, do hereby certify that the above and foregoing is a true and perfect transcript of the record-entry of judgment in the above-entitled cause as fully as the same remains on record in my office.

In testimony whereof I have hereunto set my hand and affixed 72 the seal of said court, at the court-house in the city of Clinton, in said county, this 6th day of May, A. D. 1874.

[SEAL.]
CHA'S W. CHASE,
*Clerk of said Court.*

73 *Exhibit I.—Special execution.*

STATE OF IOWA,
*Clinton County, ss:*

The State of Iowa to the sherriff of said county, greeting:

We command you that of 5 bins of rye, and being all the rye in bins 1, 2, 3, 4, & 5, in George Tong's warehouse, situated on lot 2, block 5, range 1, in the city of Comanche in said county; also one crib of corn supposed to contain about 1,500 bushels of corn, more or less, and being the corn in the crib known as the Smaller Crib, situated on lot 34, block 4, in said city; also one crib of corn and being the corn in the crib known as the Eckeman Crib, on lot 6, block 13, range 2 in said city, supposed to contain 2,000 bushels, more or less; also, the corn in a crib on lot 2, block 6, range 1, in said city, and supposed to be 74 about a thousand bushels, more or less, or so much thereof as may be found necessary, of any property you have in your possession, taken by a writ of attachment lately directed to you by us, issued at the suit of the plaintiff hereafter mentioned, you cause to be made in conformity with the statute in such case made and provided the sum of five hundred forty-three & $\frac{19}{100}$ dollars damages and eight & $\frac{80}{100}$ dollars costs, amount due with interest thereon at the rate of per cent. per annum on a certain judgment recovered in our circuit court of Clinton County on the 6th day of January, A. D. 1874, at the court-house in the city of Clinton, in the county of Clinton aforesaid, wherein Clinton National Bank plaintiff and S. H. Nissly defendant, which plaintiff sustained by reason of the non-performance of certain promises and undertakings made by the said defendant and ad- 75 judged to the said plaintiff in our said court for the damages and costs in said suit in this behalf expended, whereof the said defendant, S. H. Nissly, convicted, as appear to us of record. And have you that money before us within seventy days, to render to those who may be legally entitled thereto, with a return of your acts and doings in the premises hereon endorsed or annexed; and hereof fail not at your peril.

Witness Charles W. Chase, clerk of the circuit court of Clinton County, and the seal of said court hereunto affixed, at his office in the city of Clinton, in said county, on this 6th day of May, A. D. 1874.

[L. S.] CHARLES W. CHASE,
*Clerk of said Court,*
By ORSON HOGLE,
*Deputy Clerk.*

76 STATE OF IOWA,
*Clinton County, ss:*

I certify that the within execution came to hand on the 6th day of May, 1874, and by virtue thereof I did, on the 6th day of May, 1874, levy upon the property therein described.

J. H. WALLIKER, *Sherriff.*

77 *Exhibit J.—Special execution.*

STATE OF IOWA,
*Clinton County:*

The State of Iowa to the sherriff of said county, greeting:

We command you that of one crib of corn, and being the corn in the crib known as the Eckeman Crib, situated on lot 6, block 13, range two, in the city of Comanche, in said county, said corn supposed to be about 2,000 bushels, more or less; also all the corn in a crib on lot 2, in block 6, range 1, in said city, and supposed to be about a 1,000 bushels of corn, more or less, or so much thereof as may be found necessary of any property you have in your possession, taken by a writ of attachment lately directed to you by us, issued at the suit of the plaintiff hereafter mentioned, you cause to be made, in conformity with the statute in such case made and provided, the sum of six hundred dollars damages and eight and $\frac{50}{100}$ dollars costs, amount due, with interest
78 thereon at the rate of six per cent. per annum, on a certain judgment recovered in our circuit court of Clinton County on the 6th day of January, A. D. 1874, at the court-house, in the city of Clinton, in the county of Clinton aforesaid, wherein B. B. Shutts is plaintiff and S. H. Nissly defendant, which plaintiff sustained by reason of the non-performance of certain promises and undertakings made by the said defendant, and adjudged to the said plaintiff in our said court for the damages and costs in said suit in this behalf expended, whereof the said defendant, S. H. Nissly, convicted, as appears to us of record. And have you that money before us within seventy days, to render to those who may be legally entitled thereto, with a return of your acts and doings in the premises hereon endorsed or annexed; and hereof fail not at your peril.

Witness Charles W. Chase, clerk of the circuit court of Clinton
79 County, and the seal of said court hereunto affixed at his office in the city of Clinton, on this 6th day of May, A. D. 1874.

[SEAL.] CHA'S W. CHASE,
*Cl'k of said Court,*
By ORSON HOGLE,
*Deputy Clerk.*

STATE OF IOWA,
*Clinton County, ss:*

I certify that the within execution came to hand on the 6th day of May, A. D. 1874, and by virtue thereof I did, on the 6th day of May, 1874, levy upon the property therein described.

J. H. WALLIKER, *Sherriff.*

80 *Exhibit K.—Special execution.*

STATE OF IOWA,
*Clinton County, ss:*

The State of Iowa to the sherriff of said county, greeting:

We command you that of 5 bins of rye, being all the rye in bins 1, 2, 3, 4, & 5 in George Tong's warehouse, on lot 2, block 5, range 1, in the city of Comanche, in said county; one crib of corn, & being all the corn, & supposed to be about 1,500 bushels, more or less, in the crib known as the Smaller Crib, on lot 34, block 4, in said city; one crib of corn, being all the corn in the crib known as the Eckeman Crib, on lot 6, block 13, range 2, in said city, and supposed to be about 2,000 bushels, more or less; and all the corn in a crib on lot 2, block 6, range 1, in said city, and supposed to be about 1,000 bushels, more or less, or so much thereof
as may be found necessary of any property you have in your pos-
81 session taken by a writ of attachment lately directed to you by
us, issued at the suit of the plaintiff hereafter mentioned, you
cause to be made, in conformity with the statute in such case made and provided, the sum of two hundred twenty-one & $\frac{25}{100}$ dollars damages and eight & $\frac{81}{100}$ costs, amount due, with interest thereon at the rate of six per cent. per annum, on a certain judgment recovered in our circuit court of Clinton County on the 7th day of January, A. D. 1874, at the court-house in the city of Clinton, in the county of Clinton aforesaid, wherein Magill and Hart plaintiffs and S. H. Nissly defendant, which plaintiffs sustained by reason of the non-performance of certain promises and undertakings made by the said defendant and adjudged to the said plaintiff in our said court for the damages & costs in said suit in this behalf expended, whereof the said defendant, S. H. Nissly, convicted, as appears to us of record. And have you that money before us within
seventy days, to render to those who may be legally entitled
82 thereto, with a return of your acts and doings hereon endorsed
or annexed; and hereof fail not at your peril.

Witness Charles W. Chase, clerk of the circuit court of Clinton County, and the seal of said court hereunto affixed, at his office in the city of Clinton, in said county, on this 6th day of May, A. D. 1874.

[SEAL.]

CHARLES W. CHASE,
*Clerk of said Court,*
By ORSON HOGLE,
*Deputy Clerk.*

83 STATE OF IOWA,
*Clinton County, ss:*

I certify that the within execution came to hand on the 6th day of May, A. D. 1874, and by virtue thereof I did, on the 6th day of May, 1874, levy upon the property therein described.

J. H. WALLIKER, *Sherriff.*

84 *Exhibit L.—Special execution.*

STATE OF IOWA,
*Clinton County, ss:*

The State of Iowa to the sherriff of said county, greeting:

We command you that of 5 bins of rye, and being all the rye in bins 1, 2, 3, 4, & 5 in George Tong's warehouse, situated on lot 2, block 5, range 1, in the city of Comanche, in said county; also one crib of corn, supposed to contain about 1,500 bushels of corn, more or less, and being all the corn in the crib known as the Smaller Crib, situated on lot No. 34, block 4, in said city, or so much thereof as may be found necessary of any property you have in your possession, taken by a writ of attachment lately directed to you, by us issued at the suit of the plaintiff hereafter mentioned, you cause to be made, in conformity with the
85 statute in such case made and provided, the sum of one thousand dollars damages, and eight and $\frac{50}{100}$ dollars costs, amount due with interest thereon at the rate of six per cent. per annum, on a certain judgment recovered in our said circuit court of Clinton County on the 6th day of January, A. D. 1874, at the court-house in the city of Clinton, in the county of Clinton aforesaid, wherein Frank Rice plaintiff and S. H. Nissly defendant, which plaintiff sustained by reason of the nonperformance of certain promises and undertakings made by the said defendant and adjudged to the said plaintiff in our said court for the damages and costs in said suit in this behalf expended, whereof the said defendant, S. H. Nissly, convicted, as appear to us of record. And have you that money before us within seventy days, to render to those who may be legally entitled thereto, with a return of your acts and doings in the premises hereon endorsed or annexed; and hereof fail not at your peril.

86 Witness Cha's W. Chase, clerk of the circuit court of Clinton County, and the seal of said court hereunto affixed, at his office in the city of Clinton, in said county, on this 6th day of May, A. D. 1874.

[SEAL.]
CHA'S W. CHASE,
*Clerk of said Court,*
By ORSON HOGLE,
*Deputy Clerk.*

STATE OF IOWA,
*Clinton County, ss:*

I certify that the within execution came to hand on the 6th day of May, 1874, and by virtue thereof I did, on the 6th day of May, 1874, levy upon the property therein described.

J. H. WALLIKER,
*Sherriff.*

87 The circuit court of the United States for the district of Iowa.

UNITED STATES
*vs.*
LOT 1, IN BLOCK 2, IN COMANCHE, IN THE COUNTY of Clinton and State of Iowa, and other property.

88 The answer of J. H. Walliker, as sherriff of the county of Clinton, in the State of Iowa, claimant of one crib of corn known as the Eckeman Crib, situated on lot 6, in block 13, range 2, in the city of Comanche, containing about 2,000 bushels of corn; five bins of rye

in bins 1, 2, 3, 4, & 5 in George Tong's warehouse on lot 2, in block 5, range 1, in the city of Comanche; one crib of corn, being the one known as the Smaller Crib, on lot 34, in block 4, in the city of Comanche; the corn in a crib on lot 2, in block 6, range 1, in said city of Comanche, being property mentioned in the information of libel herein, states and alleges:

He denies each and every allegation in said information of libel contained so far as the same respects the property above described.

He denies that the property above described, or any part thereof, became forfeited in manner and form as in the said information in 89 that behalf alleges. That he now is, and for about four months last past has been, the sherriff in and for the county of Clinton, in the State of Iowa, and has been during such time acting as such sherriff. That on the 18th day of December, 1873, the Clinton National Bank, B. B. Shutts, Magill & Hart, and Frank Rice each duly caused to be issued out of the office of the clerk of the circuit court for the State of Iowa in and for the county of Clinton, in each of their favor, respectively, writs of attachment against the property of one S. H. Nissly, who was then the absolute owner of the property hereinbefore described, in suits then commenced in said court by each of said parties, respectively, against the said S. H. Nissly. That on the same day one C. H. Inguerson, then sherriff in and for said county of Clinton, and the predecessor in that office of the claimant herein, duly levied said attachment on the property hereinbefore described, 90 took said property into his possession by virtue thereof, and held possession thereof until about January first, 1874, when he turned the same over to the claimant herein as his successor in said office, who has ever since held possession thereof. (Copies of said writs of attachment and the endorsement of levy thereon being hereto attached as a part of this answer, and marked "Exhibit A,". "Exhibit B," "Exhibit C," & "Exhibit D," respectively.) That thereafter, and at the January term, 1874, of said circuit court each of said parties duly obtained judgment in each of said cases in their favor respectively against the said S. H. Nissly, transcripts of each of said judgments being hereto attached as a part of this answer, and marked "Exhibit E," "Exhibit F," & "Exhibit G," & "Exhibit H," respectively.

That thereafter, and on the 6th day of May, 1874, each of said parties respectively caused special execution to issue on each of their 91 said judgments against said S. H. Nissly, and against the property theretofore levied upon by virtue of the attachments, as hereinbefore alleged, and upon the same day said executions were duly levied upon the said property, copies of said execution and endorsements of levy thereon being hereto attached as a part of this answer, and marked "Exhibit I," "Exhibit J," "Exhibit K," and Exhibit L," respectively.

That no part of any of said judgments have been paid or in any manner satisfied, and that the said claimant is now entitled to the possession thereof.

Wherefore the said claimant prays that the said information may be dismissed without costs to this claimant to be taxed.

(Signed) J. H. WALLIKER.

HAYES & YOUNG,
*Attorneys for Claimant.*

(Indorsed:) United States circuit court, district of Iowa. United 92 States vs. Lot & block 2 in Comanchee, and other property.

Answer of J. H. Walliker, claimant of part of property. Filed May 8th, 1874. George B. Corkhill, clerk. Hayes & Young, att'eys for claimant.

United States
vs.
Lot 1, block 2, Comanche, Clinton County, Iowa.

In the circuit court of the U. S., dist. of Iowa.—May term, 1874.

United States of America,
*District of Iowa, ss:*

I, J. E. Simpson, revenue agent of the United States for the
93 district of Iowa, being duly sworn, state on oath that I am acquainted with, and have knowledge of, the real, personal, and mixed property seized in said cause. That the property so seized consists of four (4) horses, one hundred and twenty (120) barrels of high-wines in the bonded warehouse connected with said distillery premises, thirty (30) barrels of rectified spirits, about fifteen hundred (1,500) bushels of rye, over five thousand (5,000) bushels of corn in the ear, seventy-five (75) bushels of shelled corn, about one hundred and seventy (170) bushels of corn-meals, sixty (60) bushels of malt, twelve thousand (12,000) pounds of shorts, and about one hundred and fifty (150) tons of hay and straw; for a more full and particular description of which reference is hereby made to the libel of information filed in said cause in this court. That all of said articles of personal property above enumerated are liable to perish and become greatly reduced in price or value by keeping.
94 And further, that same cannot be kept without great expense; that said spirits and high-wines by leakage, breakage of packages, and evaporation is constantly becoming diminished in value; that said horses can only be kept at great & constant expense; that said corn, rye, corn-meal, shorts, & malt is liable to become heated, and thus become a total loss; and that said hay and straw, if not soon disposed of, will very much depreciate in value, and is also liable to become musty & damaged. Affiant further states that he believes it to be the interest of all parties to have said perishable property above enumerated sold as soon as possible.

(S'g'd) J. E. SIMPSON.

Subscribed & sworn to before me this 14th day of May, A. D. 1874.
GEORGE B. CORKHILL, *Clerk.*

95 And now comes James T. Lane, United States attorney for the district of Iowa, and moves the court for an order to have the said personal property, described in the foregoing affidavits, appraised and sold as perishable property, as provided and authorized in section 48 of the act of Congress of June 30, 1864, and the acts amendatory thereof, and ordering and directing the marshal to advertise and sell said property at public sale.

(Signed) JAMES T. LANE,
*District Attorney.*

We hereby accept notice of this motion and affidavit, and consent to the granting of said order so far as we have any rights therein, but solely for the purpose of preventing waste or deterioration, and not waiving any rights in the cause which may come up hereafter for adjudication.

May 14, 1874.

POLK & GOODE,
*Attorneys for Dobbins & Spurch.*

(Endorsed:) Filed May 15, 1874. George B. Corkhill, clerk.

96 United States circuit court, district of Iowa.—May term, 1874.

TUESDAY, *May 19th*, 1874.

THE UNITED STATES
*vs.*
LOT 1, IN BLOCK 2, IN CAMANCHE, IOWA.
} No. 1768. Law.

Now, on this 19 day of May, A. D. 1874, it being the 9th day of the May term, A. D. 1874, of said circuit court, comes James T. Lane, the United States attorney for the district of Iowa, and shows to the court by affidavits that the property hereinafter described, as follows, to wit, one thousand bushels of corn, A. H. Wagner's crib, Camanche; two thousand bushels (estimated) of corn, in crib of William Eckheman's; fifteen hundred bushels (estimated) of corn in crib of Joe Smaller's;
97 fifteen hundred bushels (estimated) of rye, in Geo. Touge's warehouse; one hundred and twenty-nine bbls. of high-wines, in bonded warehouse; one thousand bushels (estimated) of ear-corn, in A. H. Wagner's crib; three ricks of hay and straw, on property of Thomas Dobbins; one rick of hay, estimated at fifty tons; twenty bushels of rye (estimated) in 1 bin; fifty bushels of oats (estimated) in 2 bins; fifty bushels of shelled-corn, in basement-sink; twenty-five bushels of shelled corn, in chest; twelve thousand lbs. (estimated) of shorts; sixty bushels (estimated) of malt; one hundred and seventy bushels (estimated) of corn-meal; six barrels containing rectified spirits, (not full;) one keg (not full) containing rectified spirits; eight barrels (not full) containing rectified spirits; four (4) horses, seized by the collector, and now in the possession and custody of the U. S. marshal, under the process of this court in this action, are liable to perish and become greatly reduced in price and value by keeping, and cannot be kept without great
98 expense, and ought to be sold; and Mess. Polk, Hubbell, & Goode appearing as attorneys for Thomas S. Dobbins, one of the claimants herein, and consenting to the order for said sale, and the court being fully advised, on motion of the said district attorney of the United States, finds that said property hereinbefore described is liable to perish and become greatly reduced in price and value by keeping, and cannot be kept without great expense; and grants said motion. It is therefore ordered by the court that the marshal shall forthwith advertise and sell said property at public auction, in the same manner as goods may be sold on final execution in this district, and shall pay into court the proceeds of the sale, after deducting the reasonable costs of the seizure and sale, to abide the final order, decree, and judgment in this action.

99 The circuit court of the United States for the district of Iowa.

THE UNITED STATES
*vs.*
LOT ONE, (1,) BLOCK (2) TWO, IN COMANCHE City, in the county of Clinton and State of Iowa, and other property.
}

The answer of J. H. Walliker, as sheriff of the county of Clin-

100 ton, in the State of Iowa; claimant of one crib of corn, known as the Eckeman Crib, situated on lot 6, in block 13, range 2, in the city of Comanche, and containing about 2,000 bushels of corn; five bins of rye, in bins 1, 2, 3, 4, & 5, in George Tong's warehouse, on lot 2, in block 5, range 1, in the city of Comanche; one crib of corn, being the one known as the Smaller Crib, on lot 34, block 4, in the city of Comanche; the corn in a crib on lot 2, in block 6, range 1, in said city of Comanche; 95 empty barrels, 31 bags of malt, 1 rick of hay, 1 gray horse, and 1 spring-wagon; also one single harness, all in Comanche City, Clinton Co., Iowa, being property mentioned in the information of libel herein, states and alleges:

He denies each and every allegation in said information of libel contained so far as the same respects the property above described.

101 He denies that the property above described, or any part thereof, became forfeited in manner and form as in the said information in that behalf alleges. That he now is, and for more than four months last past has been, the sherriff in and for the county of Clinton, in the State of Iowa, and has been during such time acting as such sheriff. That on the 18th day of December, 1873, Henry Tamm, and on the 19th day of December, 1873, A. A. Wagner, and on the 20th day of December, 1873, Aaron B. Nissly each duly caused to be issued out of the office of the clerk of the circuit court of Clinton County, State of Iowa, in their favor, respectively, writs of attachment against the property of one S. H. Nissly, who was the then absolute owner of the property hereinbefore described in suits then commenced in said court by each of said parties, respectively, against the said

102. S. H. Nissly. That on the same day one C. H. Inguerson, then sherriff in and for said county, and the predecessor in that office of the claimant herein, duly levied said writs of attachment on the property hereinbefore described, (subject, however, to the prior levies of attachment upon the same property in favor of Clinton National Bank, Magill & Hart, B. B. Shutts, and Frank Rice, respectively,) took said property into his possession by virtue thereof, and held possession thereof until about the 1st day of January, 1874, when he turned the same over to the claimant herein as his successor in said office, who has ever since held possession thereof by virtue of said attachments. (Copies of said writs of attachment and the endorsement of levy thereon, being hereto attached as a part of this answer, and marked "Exhibit A," "Exhibit B," and "Exhibit C," respectively.) That thereafter, and at the January, 1874, term of said circuit court, each

103 of said parties duly obtained judgments in each of said cases in their favor, respectively, against the said S. H. Nissly, transcripts of each of said judgments being hereto attached as a part of this answer, and marked "Exhibit D," "Exhibit E," & "Exhibit F," respectively.

That no part of any of said judgments have been paid, or in any manner satisfied, except $80 on judgment of said Aaron B. Nissly, and that the said claimant is now entitled to the possession of said property by virtue of his said levies as aforesaid.

Wherefore the said claimant prays that the said information may be dismissed, with costs, in favor of this claimant to be taxed.

(Signed) J. MUNROE.
*Att'y for Claimant.*

104 *Exhibit A.—Writ of attachment.*

STATE OF IOWA,
*Clinton County, ss:*

The State of Iowa to the sherriff of said county, greeting:

Whereas Henry Tamm this day filed in the office of the clerk of the circuit court in and for Clinton County a petition, under oath, and also a bond for the use of S. H. Nissly, with sureties, approved by the clerk in conformity with the statute in such case made and provided,
105 setting forth in said petition that said S. H. Nissly, as the affiant verily believes, is indebted to Henry Tamm in the sum of \$150$\frac{95}{100}$ on contract, with interest on the same at the rate of six per cent. per annum from the 18th day of December, A. D. 1873, and that said defendant has absconded so that the ordinary process of the court cannot be served upon him.

These are, therefore, to command you to attach property of the said S. H. Nissly wherever the same may be found in your county, or so much thereof as may be sufficient and necessary to satisfy the above amount stated, and safely preserve and deal with said property, and to summon such persons as garnishees as you may be required in the premises; and make due return of your doings in the premises to the circuit court of Clinton County on or before the 1st day of the next term thereof.

106 Witness Charles W. Chase, clerk of the circuit court of Clinton County, and the seal of said court hereunto affixed, at his office, in the city of Clinton, in said county, on this 18th day of December, A. D. 1873.

{ SEAL OF THE CIRCUIT COURT, CLINTON CO., IOWA. }

CHA'S W. CHASE,
*Clerk.*

107 STATE OF IOWA,
*Clinton County, ss:*

I hereby certify and return that I received the within writ of attachment on this 19th day of December, 1873, at 7 o'clock a. m. That on the 19th day of December, 1873, by virtue of said writ, I levied upon and attached the following-described personal property, to wit: One crib of corn on lot 34, block 4, Comanche, Iowa, known as the smaller crib; one crib of corn on lot 6, block 13, range 2, Comanche, Iowa; one crib of corn on lot 2, block 6, range 1, Comanche, Iowa; one gray horse and one spring-wagon, and one single harness, subject to the prior levies of writs of attachment against S. H. Nissly and in favor of S. Rice, B. B. Shutts. All of said property being in Comanche Township, Clinton County, Iowa, and taken as the property of said S. H. Nissly,
108 def't within named.

Dated this 19th day of December, 1873.

C. H. INGUERSON, *Sheriff*,
By R. S. SEAMEN, *Deputy.*

109 *Exhibit B.—Writ of attachment.*

STATE OF IOWA,
*Clinton County, ss:*

The State of Iowa to the sheriff of said county, greeting:

Whereas A. A. Wagner this day filed in the office of the clerk of the circuit court in and for Clinton County a petition under oath, and also a

bond for the use of S. H. Nissly, with sureties approved by the clerk, in
conformity with the statute in such case made and provided,
110 setting forth in said petition that S. H. Nissly, as the affiant verily
believes, is indebted to A. A. Wagner in the sum of three hundred
and fifty dollars on contract, with interest on the same at the rate of six per cent. per annum from the 19th day of December, A. D. 1873, and that said defendant has absconded so that the ordinary process cannot be served upon him. That defendant is about to convert his property, or a part thereof, into money for the purpose of placing it beyond the reach of his creditors:

These are, therefore, to command you to attach property of the said S. H. Nissly wherever the same may be found in your county, or so much thereof as may be sufficient and necessary to satisfy the above amount stated, and safely preserve and deal with said property, and to
summon such persons as garnishees as you may be required in the
111 premises; and make due return of your doings in the premises to
the circuit court of Clinton County on or before the first day of
the next term thereof.

Witness Charles W. Chase, clerk of the circuit court of Clinton County, and the seal of said court hereunto affixed, at his office, in the city of Clinton, in said county, on this 19 day of December, A. D. 1873.

{ SEAL OF THE CIRCUIT COURT, CLINTON CO., IOWA. }

CHA'S W. CHASE, *Clerk*,
By ORSON HOGLE, *Deputy*.

STATE OF IOWA,
*Clinton County*, *ss*:

112 I hereby certify and return that I received the within writ of
attachment on the 19th day of December, 1873, at 1 o'clock p. m.;
that on the 19th day of December, 1873, by virtue of said writ, I levied upon and attached the following-described personal property, to wit: 95 empty barrels; also, a rick of hay, being on M'r's Dunn's lot No. 4, block No. 3, Comanche, Iowa; 31 bags of malt; also, one crib of corn, known as the smaller crib, on lot 34, block 4, in Comanche City, Iowa, supposed to contain about 1,500 bushels of corn; also, another crib of corn, on lot 6, block 13, range 2, Comanche, Iowa, known as the Ekeman crib, supposed to contain about 2,000 bushels of corn; also, one crib of corn situate on lot 2, block 6, range 1, Comanche, Iowa. Said three cribs of corn *is* levied upon subject to the prior writs of attach-
ment against S. H. Nissly and in favor of B. B. Shutts, Frank Rice, and
Henry Tamm. All of the above is so levied upon as the prop-
113 erty of the defendant, said S. H. Nissly, a schedule of which is
hereto attached and marked "A," and made a part hereof. I
further certify that said defendant was not found.

Dated this 19 December, 1873.

C. H. INGUERSON, *Sheriff*,
By R. S. SEAMEN, *Deputy*.

Fees:

| | |
|---|---|
| Writ of attachment | 1 00 |
| Levy | 1 00 |
| Mileage | 1 00 |
| Care & custody | 5 00 |
| Inventory | 5 00 |
| | $13 00 |

Schedule A:

95 empty barrels.
31 bags of malt.
1 rick of hay.
3 cribs of corn.

114 *Exhibit C.—Writ of attachment.*

STATE OF IOWA,
*Clinton County, ss:*

To the sheriff of said county, greeting:

Whereas Aaron B. Nissly this day filed in the office of the clerk of the circuit court in and for Clinton County a petition under oath, and also a bond for the use of S. H. Nissly, with sureties approved 115 by the clerk, in *in* conformity with the statute in such case made and provided, setting forth in said petition that said S. H. Nissly, as the affiant verily believes, is indebted to said Aaron B. Nissly in the sum of two hundred and fifty dollars, on contract, with interest on the same at the rate of six per cent. per annum from the 20th day of December, A. D. 1873, and that said defendant has disposed of his property in part with intent to defraud his creditors:

These are, therefore, to command you to attach property of the said S. H. Nissly wherever the same may be found in your county, or so much thereof as may be sufficient and necessary to satisfy the above amount stated, and safely preserve and deal with said property, and to summon such persons as garnishees as you may be required in the premises; and make due return of your doings in the premises to 116 the circuit court of Clinton County on or before the first day of the next term thereof.

Witness Charles W. Chase, clerk of the circuit court of Clinton County, and the seal of said court hereunto affixed, at his office, in the city of Clinton, in said county, on this 20 day of December, A. D. 1873.

{ SEAL OF THE CIRCUIT COURT OF CLINTON CO., IOWA. } CHA'S W. CHASE, *Clerk.*

STATE OF IOWA,
*Clinton County, ss:*

I hereby certify and return that I received the within writ of at- 117 tachment on the 20 day of December, 1873, at 10 o'clock a. m., and that on the same day, by virtue of said writ, I levied upon and attached the following-described personal property as belonging to said defendant within named, to wit: One crib of corn, known as the Smaller Crib, on lot 34, block 4, Comanche, Iowa; also, one crib of corn on lot 6, block 13, range 2, in Comanche City, Iowa; also, one crib of corn on lot 2, block 6, range 1, in Comanche City, Iowa. Said three cribs of corn are so levied upon and attached, subject to the prior writs of attachment against S. H. Nissly, def't within named, in favor of F. Rice, B. B. Shutts, Henry Tamm, and A. A. Wagner.

Dated this 20th day of December, 1873.

C. H. INGUERSON, *Sherriff,*
By R. S. SEAMEN, *Dep'ty.*

118 *Exhibit D.*

STATE OF IOWA,
*Clinton County, ss:*

Be it remembered that heretofore, to wit, at a term of the circuit court of the State of Iowa, begun and held at Clinton, in and for said county, on the 1st Monday in January, A. D. 1874—present the Hon. D. W. Ellis, judge of the seventh judicial district of the State of Iowa, J. H. Walliker, sherriff of said county, and C. W. Chase, clerk of said
court—and the following-entitled cause coming on to be heard on
119 the 6th day of January, A. D. 1874, and still during said term of
said court, the following, among other proceedings, were had thereon, to wit:

HENRY TAMM }
*vs.* } 1739. At law. January 6th, 1874.
S. H. NISSLY. }

On this day this cause came on to be heard, and the plaintiff appeared by H. W. Smith, his attorney, but the said defendant, although duly served with notice of the pendency of this suit according to law, and being three times solemnly called in open court, came not, but made default, and the court, having heard the proofs, finds for the plaintiff, and assesses the amount of his recovery at one hundred and fifty & $\frac{95}{100}$ dollars.

It is therefore ordered by the court that the said plaintiff have and recover of and from the said defendant the sum of one hundred and
fifty & $\frac{95}{100}$ dollars damages, with interest at the rate of 6 per
120 cent. per annum, together with the costs of this suit, taxed at
dollars; and that a special execution issue therefor against the property attached, and a general execution for the residue, if any.

THE STATE OF IOWA,
*Clinton County, ss:*

I, Cha's H. Chase, clerk of the circuit court of the State of Iowa, in and for said county, do hereby certify that the above and foregoing is a true and perfect transcript of the record-entry of judgment in the above-entitled cause as fully as the same remains on record in my office.

In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the court-house, in the city of Clinton, in said county, this 19th day of May, A. D. 1874.

[SEAL.] CHA'S W. CHASE,
*Clerk of said Court.*

121 *Exhibit E.*

THE STATE OF IOWA,
*Clinton County, ss:*

Be it remembered that heretofore, to wit, at a term of the circuit court of the State of Iowa, begun and held at Clinton, in and for said county, on the 1st Monday in January, A. D. 1874—present, the Hon. D. W. Ellis, judge of the seventh judicial district of the State of Iowa, J. H.
Walliker, sherriff of said county, and C. W. Chase, clerk of said
122 court—and the following-entitled cause coming on to be heard,
on the 6th day of January, A. D. 1874, and still during said term

of said court, the following, among other proceedings, were had therein, to wit:

A. A. WAGNER }
*vs.* } 1740. At law. January 6th, 1874.
S. H. NISSLY. }

This day this cause came on to be heard, and the plaintiff appeared by H. W. Smith, his attorney, but the said defendant, although duly served with notice of the pendency of this suit as required by law, and being three times solemnly called in open court, came not, but made default, and the court, having heard the proofs, finds for the plaintiff, and assesses the amount of his recovery at two hundred dollars.

123 It is therefore ordered by the court that the said plaintiff have of and recover from the defendant the said sum of two hundred dollars damages, with interest at the rate of six per cent. per annum from this date, together with the costs of this suit, taxed at dollars; and that a special execution issue therefor against the property attached, and a general execution for the residue, if any.

STATE OF IOWA,
*Clinton County, ss:*

I, C. W. Chase, clerk of the circuit court of the State of Iowa, in and for said county, do hereby certify that the above and foregoing is a true and perfect transcript of the record-entry of judgment in the above-entitled cause as fully as the same remains on record in my office.

124 In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the court-house, in the city of Clinton, in said county, this 19th day of May, A. D. 1874.

[SEAL.] CHA'S W. CHASE,
*Clerk of said Court.*

125 *Exhibit F.*

STATE OF IOWA,
*Clinton County, ss:*

Be it remembered that heretofore, to wit, at a term of the circuit court of the State of Iowa, begun and held at Clinton, in and for said county, on the 1st Monday in January, A. D. 1874—present, the Hon. D. W. Ellis, judge of the seventh judicial district of the State of Iowa,

126 J. H. Walliker, sherriff of said county, and C. W. Chase, clerk of said court—and the following-entitled cause coming on to be heard, on the 6th day of January, 1874, and still during said term of said court, the following, among other proceedings, were had therein, to wit:

AARON B. NISSLY }
*vs.* } 1746. At law. January 6th, 1874.
S. H. NISSLY. }

On this day this cause came on to be heard, and the plaintiff appeared by J. Monroe, his attorney, but said defendant, although duly served with notice of the pendency of this suit according to law, and being three times solemnly called in open court, came not, but made default, which default is here entered by order of the court, and the court, having heard the proofs, find for the plaintiff, and assess the amount of his recovery at one thousand and fifty dollars.

It is therefore ordered by the court that the said plaintiff have 127 and recover of and from the said defendant the sum of one thousand and fifty dollars damages, with interest thereon at the rate of six per cent. per annum from this date, together with the costs of this suit, taxed at dollars; and that a general execution *to* issue; and it is further ordered by the court that R. M. Rockwell be appointed a commissioner to take the answer of F. Lindorff, garnishee herein, which answer being filed, attachment is continued and a special execution issue against the property as attached.

THE STATE OF IOWA,
*Clinton County*, *ss* :

I, C. W. Chase, clerk of the court of the State of Iowa, in and for said county, do hereby certify that the above and foregoing is a true and perfect transcript of the record-entry of judgment in the above-entitled cause as fully as the same remains on record in my office.

128 In testimony whereof I have hereunto set my hand and affixed the seal of said court, at the court-house, in the city of Clinton, in said county, this 19th day of May, A. D. 1874.

[SEAL.] CHA'S W. CHASE,
*Clerk of said Court.*

(Endorsed:) The United States vs. Lot 1, Block 2, Comanche City, Clinton County, Iowa, and other property. Answer of J. H. Walliker, as sheriff of Clinton, Co., Iowa. Filed May 22, 1874. George B. Corkhill, clerk.

129 In the circuit court of the United States, district of Iowa.

UNITED STATES
*vs.*
LOT 1, BLOCK 2, IN COMANCHE, IOWA, DEF'T.

The claim and answer of T. S. Dobbins, owner and claimant of a 130 part of the property mentioned in the information, to the libel of information of J. T. Lane, attorney, &c., in behalf of the United States against said property.

And now comes the said Tho's S. Dobbins, of Chicago, in the State of Illinois, owner of lot 1 in block 2, except part conveyed by James Neil & Julia, his wife, to Mary C. Litting, by deed of 5th of April, 1865, recorded book 2 of records Clinton Co.

Also E. ½ l. 2, block two, (2,) except part sold to said Litting.

Also W. ½ of lot 2 in block two, (2,) except 197 feet of front part on Eagle street.

Also lot (4) four in block (6) six, range two, (2,) and the water-lots on the Mississippi River opposite to and of equal width with said lot four, (4,) block six, (6,) range two, (2,) and all opposite to and of equal width with lots No. (2) two & (3) three, in said block six, (6,) range two, (2;) all of said property being in part of said village, now city of Comanche, 131 in Clinton County, Iowa, and being the same property leased by the claimant to Sam'l H. Nissly for use as a distillery or flouring-mill.

Also the flouring-mill, distillery, bonded warehouse, boiler and engine house, cistern-house, office, corn-crib, barn, and all other buildings thereon standing, and the machinery, still, mash-tub, engine, boiler, and all the appurtenances, fixtures, appliances, tools, and implements contained in and appertaining or belonging thereto.

Also 8 wooden-fermenting-tubs.
1 lumber-wagon.
1 1-horse delivery-wagon.
1 dump-cart.
1 harness for same.
1 set of bob-sleds.
1 set of double harness.
1 set " single do.
1 wheelbarrow.
3 fire-hooks & poker.
4 scoop-shovels.
1 cob rake.
132 1 clipper fan'ing-mill.
280 fire-bricks.
1 stair-ladder.
1 iron bevel cog-wheel, detached.
1 piece shafting, 6 f't long.
1 flour-cleaner.
45 seamless socks.
32 steel mill-pricks.
4 Andrews detached bolt-wheels.
2 wooden detached conveyers.
1 heating coal-stove & pipe.
1 set Fairbanks No. 8 platform scales.
1 set Fairbanks 6,000 lbs. steelyards.
1 set " 1,700 lbs. steelyards.
6 detached cog-wheels.
2 old smutters.
2 p'r gas-pipe, box-shape.
60 f't (2 sections) rubber hose, 1½ in.
50 " (1 section) " " 1 in.
1 hoe.
1 water-pail.
1 tin yeast-can.
2 pipe-wrenches.
1 monkey do.
1 sledge.
½ bbl. machine-oil.
1 fire sample-meter.
1 copper hand-pump.
133 1 jack-screw.
2 bung-borer'.
1 cooper's adz.
1 tin thief.
1 hoop-driver.
1 cooper's scraper.
1 co*al*-chisel.
1 wagon-chain.
1 crow-bar.
2 bars Babbit's metal.
1 desk.
1 set of hay-scales.

14 empty new barrels.
2 old empty do.
½ bbl. compr. roofing.
1 old boiler in yard.
10 empty 5-gal. kegs.
1 " barrel.
1 lot of harness strap.
1 tin pump.
1 new doubler in George Tong's warehouse.
Leechers, cisterns, fixtures, &c., in rectifying department.
15 empty barrels.
105 " "
One hay-shed on Ben. Duff's lot near distillery premises.

134 And for answer to the libel of said James T. Lane, district attorney, in behalf of the United States, against the said property, (with other property not here claimed,) doth allege and propound as follows, to wit:

1st. That the said T. S. Dobbins is the true and bona-fide owner of the aforesaid real & personal property claimed by him, and that no other person is the owner thereof.

Second. That this respondent has heard, & believes it to be true, that N. Boardman, collector, &c., in the said libel named, did seize the said property hereinbefore claimed, and now holds the same in custody as in the said libel is alleged & plead.

Third. That this respondent has no knowledge, information, or belief as to the truth or untruth of the 1st charge in said libel, that said
135 Nissly, or his agents, neglected and refused to make, from day to day, in books kept by him and them in form prescribed by the Commissioner of Internal Revenue, true and exact entries of the number of gallons of spirits distilled, & of the number of gallons placed in the warehouse, & of the proof thereof, & of the number of gallons sold & removed, with proof thereof, and of the name, place of business, & residence of the person or persons to whom said spirits were sold, or that false entries to said books were made in each & all said particulars, & that omissions were made with intent to defraud and conceal certain facts and particulars therein referred to, required to be entered in such books, or to cancel, obliterate, or destroy said books, or any portion thereof, or that he or they permitted the same to be done with intent to defraud, and neglected and refused to produce said
136 books when required by certain revenue-officers, as therein charged particularly, and therefore denies that such charges are true, as in the 1st article of said libel *as* is notably alleged and pleaded.

Fourth. That respondent has no knowledge, information, or belief as to the truth or falsity of the charges in the second article of said libel, to wit, that the said distilled spirits and wines were owned by said Sam'l H. Nissly, and another or other persons, & that they carried on the business of a distiller with intent to defraud the United States of the tax on the same as alleged, & therefore denies the same, with the exception that respond*a*nt believes said property was owned, except the stills and other apparatus, by said Nissly.

Fifth. That respondent has no knowledge, information, or belief
137 as to the truth or falsity of the charges alleged in the 3rd article of said libel, to wit, that said distilled spirits, &c., were found in a certain building, &c., and that said Nissly and other persons carried on the business of distiller with intent to defraud, &c., as alleged, and therefore denies the same, with this qualification, that he believes said

Nissly did carry on the business of a distiller at the place and time stated.

Sixth. That the respond*ant* has no knowledge, information, or belief as to whether the said Nissly did attempt to defraud the United States, &c., as alleged in the 4th article of said libel, and therefore denies the same; admits that said distillery and distilling apparatus were used by said Nissly for the production of distilled spirits, as stated.

Seventh. That respond*ant* has no knowledge, information, or belief as to the truth and falsity of the charge in 5th article of said 138 libel alleged, to wit, that taxes had been imposed prior to said seizure; that the property described as found on the premises of said Nissly, or other person, for the purpose of sale or removal in fraud of internal-revenue law, and therefore denies the same.

Eig'th. That respond*ant* has no knowledge, information, or belief as to the truth or falsity of the charge in the 6th article of said libel alleged, to wit, that the said corn, &c., was found in the possession of the said Nissly, or other person, he or they intending to dispose of the same with design to evade the payment of tax, as therein alleged, & therefore denies the same.

Ninth. This respondent has no knowledge, information, or be- 139 lief as to the truth or falsity of the charge in the seventh article of said libel alleged, to wit, that said tools, &c., were found in the building, &c., where the said distilled spirits were found, and therefore denies the same, & denies that they became liable to forfeiture, as in the seventh article of said libel alleged.

Tenth. This respond*ant* has no knowledge, information, or belief as to the truth or falsity of the charge in the 8th article of said libel alleged, to wit, that said vessels, carriages, &c., were used in the removal and concealment of said goods, distilled spirits, &c., the same being then and there forfeited, as alleged in said article, and therefore denies the same.

140 Eleventh. That respond*ant* has no knowledge, information, or beliefas to the truth or falsity of the charge in the 9th article of said libel alleged, to wit, that the said barrels, &c., were sold, &c., with the stamps thereon, showing that the contents had been duly inspected, tax paid, &c., said barrels, &c., then & there containing other than the contents which were there when said articles were so stamped, &c., as alleged in said article, and therefore denies the same.

Twelfth. That respond*ant* has no knowledge, information, or belief as to the truth or falsity of charge in the 10th article of said libel alleged, to wit, that said distilled spirits were found elsewhere than in a distillery and a distillery-warehouse, not having been removed according to law, as is in said article alleged, and therefore denies the same.

141 Thirteenth. That respond*ant* has no knowledge, information, or belief as to the truth or falsity of the charge in the 11th article of said libel alleged, to wit, that said distilled spirits were removed in casks, & of more than ten gallons each, from premises in which same had been distilled, & at times other than after sunrising and before sunsetting, and that said vessels, horses, carts, &c., were used in the removal thereof, as in said article alleged, and therefore denies the same.

Fourteenth. That respond*ant* has no knowledge, information, or belief as to the truth or falsity of the charge in the 12th article of said libel alleged, to wit, that some person drew off distilled spirits 142 and emptied said casks, &c., bearing certain marks, brands, &c.,

without then efacing said marks, brands, &c., as required by law, as in said article alleged, and therefore denies the same.

Fifteenth. That respondant has no knowledge, information, or belief as to the truth or falsity of the charge in the 13th article of said libel alleged, to wit, that said vehicles & animals were used in transporting empty casks, &c., having thereon certain brands, &c., required by law to be placed on casks, &c., containing distilled spirits, as in said article alleged, and therefore denies the same.

Sixteenth. That respondant has no knowledge, information, or belief
as to the truth or falsity of the charge in the 14th article of said
143 libel alleged, to wit, that said personal property was owned, &c,
by some person, and found in his possession, in a certain building, & which said person permitted to be used for ingress and egress to and from a distillery wherein some person carried on the business of distilling without having paid the special tax or given bond, or with intent to defraud the United States of the tax on the spirits distilled by said person, as in said article alleged, and therefore denies the same.

Seventeenth. That respondant has no knowledge, information, or belief as to the truth or falsity of the charge in the 15th article of said libel alleged, to wit, that some person carrying on the business of a
distiller did knowingly and unlawfully omit, &c, to do the thing
144 required by law in carrying on said business, which said person
owned and had an interest as owner in said distilled spirits and liquors, as in said article alleged, and therefore denies the same.

Eighteenth. That respondant has no knowledge, information, or belief as to the truth or falsity of the charge in th' 16 article of said libel alleged, to wit, that some person then and there carrying on the business of a distiller committed acts prohibited by the said act of Congress of 20 July, 1868, which said person owned and had an interest as owner in said distilled spirits, as in said article alleged, and therefore denies the same.

Nineteenth. That all and singular the premises are true.

Wherefore the respondant prays that the said property, real &
145 personal, being before claimed by him, may be restored to him.

(Signed) T. S. DOBBINS.

POLK, H. & GOODE,
*Att'ys for Resp't.*

On the 29th day of May, A. D. 1874, appeared personally T. S. Dobbins, the above-named respondant, and was sworn to the truth of the foregoing answer before me.

[SEAL.] GEORGE B. CORKHILL,
*Clerk C. C. U. S.*

(Endorsed:) Filed May 29, 1874. George B. Corkhill, clerk.

146 In the circuit court of the United States, district of Iowa.

To the Hon. J. F. Dillon, judge of said circuit court of the United States for said district:

The petition of T. S. Dobbins respectfully shows that he is the owner
of lot one, (1,) block two, (2,) in Comanche, Iowa, and certain
147 distillery fixtures and other property as particularly specified in
his claim of ownership this day filed in this court in the case of a libel by United States against said property and other lately seized by the collector of internal revenue for the second collection district of the

State of Iowa, and now in the custody of the marshal, by virtue of process issued from said circuit court for said district, and your petitioner now prays your honor to order the said property to be delivered to him upon his executing a bond to the United States with sureties, according to the statute in such case made and provided.

(Signed) **T. S. DOBBINS.**

POLK, H. & GOODE,
*Att'ys for Claimant.*

148 United States district court, district of Iowa, May term, 1874.

FRIDAY MORNING, *May 29th*, '74.

UNITED STATES
*vs.*
LOT 1, BLOCK 2, IN CAMANCHE, IOWA, &c. } No. 1768. Law.

This cause coming on to be heard on claim of ownership and petition
of T. S. Dobbins to be admitted a partys to contest the said libel,
except as to the following property not claimed, to wit, one crib of corn
known as the Eckerman crib, situated on lot 6, in block 13, range 2, in
the city of Camanche, Clinton County, Iowa, containing about 2,000
bushels of corn; five (5) bins of rye, in bins 1, 2, 3, 4, & 5, in George
Tong's warehouse, in lot 2, block 5, range 1, in said city of Ca-
149 manche; 1 crib of corn, being the one known as the smaller crib,
on lot 34, in block 4, in the said city of Camanche; the corn in a
crib on lot 2, in block 6, range 1, in said city of Camanche; sixty (60)
bushels of malt; 1 rick of hay; 1 gray horse; 1 spring-wagon; 1 single
harness; eight (8) wooden fermenting-tubs; two (2) lumber-wagons;
three (3) sorrel horses; 1 set double harness; one & one-half tuns lump
coal; twenty (20) tons slack coal; six (6) cords pine strips; twenty (20)
bushels of rye, (estimated;) one bin of fifty bushels of oats, (estimated;)
two bins, fifty (50) bushels of corn, in basement sink; twenty-five (25)
bushels shelled corn, in chest; one coil of old rope; three (3) baskets;
one (1) heating coal-stove & pipe; twelve thousand (12,000) pounds
shorts, (estimated;) one hundred & seventy (170) bushels of corn-meal;
one heating coal-stove; six (6) barrels rectified spirits, (not full;) one
lot leather fly-nets; one (1) buggry-top; thirteen (13) pieces of timber,
6 x 12, & 10 to 14 feet long; one buggy-cushion; one whip; one lot still
timber, in Dillon's yard; one single delivery-wagon, in hands of
150 John Rodden; three (3) ricks of hay & straw, 100 tons, (estima-
ted;) lot of T. S. Dobbins, west of cattle-sheds; one scoop-shovel;
one keg of rectified spirits, not full; eight (8) barrels of rectified spirits,
not full; one hundred & twenty-nine (129) barrels of high wines, containing 5,839½ wine galls. & and 7,895.49 proof gallons; one barrel high wines, not full; two (2) barrels rectified spirits, not full; three (3) barrels rectified spirits, not full; three (3) barrels of cherry-bounce, not full; one tin can & keg of coloring-matter; ten (10) barrels of rectified spirits, in cisterns and leeches.

And the court having heard said petition & the traverse of the several articles of said libel, doth order and adjudge that said petition & answer of the said T. S. Dobbins be filed, and that he be admitted a party herein & permitted to contest said libel as to said property so claimed by him, upon his filing herein a bond in the penalty of one thousand dollars, conditioned according to law, to secure the costs connected with his said claim & contest; which bond is forthwith given, approved, & filed, with Samuel Coskery as security.

151 **United States circuit court, district of Iowa, May term, 1874.**

FRIDAY MORNING, *May* 29, '74.

THE UNITED STATES
*vs.*
LOT 1 IN BLOCK 2, CAMANCHE, IOWA, &c. } No. 1768. Law.

This cause coming on this day to be heard on petition of Thomas S. Dobbins, admitted to defend herein, as claimant of certain of said property, to have said property, to wit: Lot 1 in block (2) two, except part conveyed by James Neil, and Julia, his wife, to Mary C. Letting, by deed of 5th of April, 1865, recorded B. 2 of records, Clinton Co.; also E. ½ l. 2. block two, (2,) except part sold to said Letting. Also W. ½ of lot two in block two, (2,) except 197 feet off front part on Eagle street; also lot four (4,) in block six (6,) range two, (2,) and the water lots on the
152 Mississippi River, opposite to and of equal width with said lot four (4,) block six (6,) range two, (2,) and all opposite to and of equal width with lots 2 & 3 in said block six, (6,) range two, (2,) all of said property being a part of said village, now city of Camanche, in Clinton County, Iowa, and being the same property leased by this claimant to Samuel H. Nissley, for use as a distillery or flouring mill.

Also, the flour-mill, distillery, bonded warehouse, boiler and engine house, cistern-house, office, corn-cribs, barn, and all other buildings thereon standing, and the machinery, still, wash-tubs, engine-boiler, and all the appurtinances, fixtures, appliances, tools, and implements contained in and appertaining or belonging thereto. Also, 8 wooden fermenting tubs, 1 lumber-wagon, 1 one-horse delivery-wagon, 1 dump-cart, 1 harness for same, 1 set bob sleds, 1 set double harness, 1 set single harness, 1 wheelbarrow, 3 fire hooks & pokers, 4 scoop-shovels, 1 cob-rake, 1 Clipper fanning-mill, 280 fire-bricks, 1 stair-ladder, 1 iron
153 beveled cog-wheel, detached, 1 piece shafting, 6 ft. long, 1 flue-cleaner, 45 seamless sacks, 32 steel mill-picks, 4 Andrer's detached bolt wheels, 2 wooden detached conveyers, 1 heating coal-stove & pipe, 1 set Fairbanks No. 8 platform scales, 1 Fairbanks 6,000 lbs. steelyard, 1 set Fairbanks 1,700-lb. steelyard, & 6 detached cog-wheels, 2 old smutters, 2 ps. gas-pipe, bow-shape, 60 feet (2 section) rubber-hose, 1½ in., 50 feet (1 section) rubber-hose, 1 in., one hoe, 1 water-pail, 1 tin yeast-can, 2 pipe-wrenches, 1 monkey-wrench, 1 sledge, ½ bbl. machine-oil, one fine sample metre, 1 copper hand-pump, 1 jack-screw, 2 bung-bore's, 1 cooper adz, 1 fire-thief, 1 hoop-driver, 1 cooper's scraper, 1 cold chisel, 1 wagon-chain, 1 crowbar, 2 bars Babbitt metal, 1 desk, 1 set hay-scales, 14 empty barrels, (new,) 2 old empty barrels, ½ bbl. compr. roofing, 1 old boiler in yard, 10 empty five-gallon kegs, 1 empty barrel, 1 lot of harness straps, 1 tin pump, 1 new doubler in Geo. Tong's warehouse, leeches, cisterns, fixtures, &c., in rectifying department, 15 empty barrels, 105 empty barrels, 1 hay-shed on the Benduf lot, near distillery
154 premises, delivered to him pendente lite upon executing bond as required by law. It is thereupon ordered and adjudged that said petition be granted, and that John E. Goodenough, of Maquoketa, Iowa, A. B. Ireland of Camanche, Iowa, & Samuel Knox, of Princeton, Iowa, be and are hereby appointed appraisers to inspect and appraise said property herein above described at its fair cash-value at date of appraisement & report the same to this court forthwith.

155 **United States circuit court, district of Iowa, May term, 1874.**

MONDAY MORNING, *June 1st*, 1874.

THE UNITED STATES
*vs.*
LOT 1, BLOCK 2, IN CAMANCHE, IOWA, AND THE distillery & other property.
No. 1768. Law.

This day, this cause coming on to be heard, James T. Lane, attorney of the United States for the district of Iowa, appearing for the United States, and it appearing to the court that the warrant of arrest & monition in this case has been returned duly executed by the marshal, and this being the return-day for appearance, as fixed in said notice published by said marshal, on motion of the said district attorney
156 public proclamation is made; and thereupon comes Thomas S.
Dobbins, who makes claim as the owner of the following property described in said libel of information, to wit: Lot 1 in block (2) two, except part conveyed by James Neil and Julia, his wife, to Mary C. Littig, by deed of 5th of April, 1865, recorded b. 2 of records, Clinton Co. Also E. ½ l. 2, block two, (2,) except part sold to said Lettig. Also W. ½ of lot two in block two, (2,) except 197 feet off front part in Eagle street.

Also lot four (4) in block six, (6,) range two, (2,) and the water lots in the Mississippi River opposite to and of equal width with said lot four, (4,) block six, (6,) range two, (2,) and all opposite to and of equal width with lots No. two (2) & (3) three in said block six, (6,) range two, (2,) all of said property being a part of said village, now city, of Camanche, in Clinton County, Iowa, and being the same property leased by Thomas S. Dobbins to Samuel Nissley for use as a distillery or flouring-mill.
Also the flouring-mill, distillery, bonded warehouse, & boiler &
157 engine house, cistern-house, office, corn-cribs, barn, and all other
buildings thereon standing, and the machinery, still, wash-tubs, engine, boiler, and all the appurtenances, fixtures, appliances, tools, and implements contained in and appertaining or belonging thereto.

Also 8 wooden fermenting-tubs, 1 lumber wagon, 1 one-horse delivery-wagon, 1 dump-cart, 1 harness for same, 1 set bob-sleds, 1 set double harness, 1 set single harness, 1 wheelbarrow, 3 fire hooks & pokers, 4 scoop-shovels, 1 cob-rake, 1 clipper fanning-mill, 280 fire-bricks, 1 stair-ladder, 1 iron beveled cog-wheel, detached; 1 piece shafting, 6 feet long; 1 flue-cleaner, 45 seamless sacks, 32 steel mill-picks, 4 wooden (detached) bolt-wheels, 2 wooden (detached) convey*eo*rs, 1 heating coal stove and pipe, 1 set Fairbanks No. 8 platform-scales, 1 Fairbanks 6,000-lbs. steelyard, 1 *set* Fairbanks 1,700-lbs. steelyard, 6 detached cog-wheels, 2 old smutters, 2 p's gas-pipe, bow shape; 60 feet (2 sections) rubber hose, 1½ in.; 50 feet (1 section) rubber hose, 1 in.; 1 hoe, 1 water-pail, 1 tin
158 yeast can, 2 pipe-wrenches, 1 monkey-wrench, 1 sledge, ½ bbl. ma-
chine-oil. 1 fine sample metre, 1 copper hand-pump, 1 jack-screw, 2 bung-bore's, 1 cooper's adz', 1 tin thief, 1 hoop-driver, 1 cooper's scraper, 1 cold-chisel, 1 wagon-chain, 1 crow-bar, 2 bars Babbit*'s* metal, 1 desk, 1 set hay-scales, 14 empty barrels, new; 2 old empty barrels, ½ lb*s*. comp. roofing, 1 old boiler in yard, 10 empty five-gal. kegs, 1 empty barrel, 1 lot of harness-straps, 1 tin pump, 1 new doubler, in Geo. Tong's warehouse; le*et*ches cisterns, fixtures, &c., in rectifying department; 15 empty barrels, 105 empty barrels, 1 hay-shed, in Ben. Duff lot near distillery premises; and having submitted himself to the jurisdiction of the court and given bond for costs, files his answer & claim, and the trial of the issues thereupon joined is continued.

Now thereupon comes J. H. Walliker, as sheriff of Clinton County, State of Iowa, and makes claim as such sheriff, by *nature* of a levy made under sundry writs of attachment and executions against S. H. Nissly, of the following property, to wit: 1 crib of corn, known as the
159 Eckerman crib, situated on lot 6 in block 13, range 2, in the city
of Camanche, and containing about 2,000 bushels of corn; five bins of rye in bins 1, 2, 3, 4 & 5, in George Tong's warehouse, on lot 2 in block 5, range 1, in the city of Camanche; one crib of corn, being the one known as the smaller crib, on lot 34, block 4, in the city of Camanche; the corn in a crib on lot 2 in block 6, range 1, said city of Camanche; 95 empty barrels, 31 bags of malt, 1 rick of hay, 1 gray horse, and 1 spring-wagon, also one single harness, all in Camanche City, Clinton Co., Iowa. And issue being thereupon joined, and the trial of said issues coming on to be heard, both parties, plaintiff & defendant Walliker, having in writing in open court waived a jury, thereupon the said issues were tried by the court, and after hearing the testimony of the witnesses and the argument of counsel, Mess. Hayes & Young appearing as attorneys for said J. H. Walliker, the court
160 being fully advised in the premises finds the issues in favor of
the United States, and that the matters and things set forth in said information are true, and that said property so claimed as aforesaid by said J. H. Walliker as sheriff aforesaid, has become & is forfeited to the United States, & that said Walliker has no claim thereto, and orders the same to be condemned as forfeited to the United States.

And no person appearing as claimant to the remaining property described in said information, to wit, all the property contained & described in said information, except that which is claimed by said Dobbins & said Walliker, the court finds from the testimony has become & is justly forfeited to the United States, & on motion of the district attorney orders a decree of condemnation thereof.

It is therefore adjudged and decreed by the court that the following property, (being all described in said information, except that part claimed by said Thomas S. Dobbins as set forth in his answer,) to
161 wit: One crib of corn, known as the Eckerman crib, situated
on lot 6 in block 13, range 2, in the city of Camanche, Clinton County, Iowa, containing about 2,000 bushels of corn, five (5) bins of rye in bins 1, 2, 3, 4 & 5, in George Tong's warehouse, on lot 2, block 5, range 1, in said city of Camanche; 1 crib of corn, being the one known as the smaller crib, on lot 34 in block 4, in the said city of Camanche; corn in a crib on lot 2 in block 6, range 1, in said city of Camanche; sixty (60) bushels of malt, 1 rick of hay, 1 gray horse, 1 spring-wagon, 1 single harness, eight (8) wooden fermenting-tubs, two (2) lumber-wagons, three (3) sorrel horses, one set double harness, one and one-half tons lump coal, twenty (20) tons slack coal, six (6) cords pine strips, twenty (20) bushels of rye, (estimated;) one bin of fifty bushels of oats, (estimated;) two bins, fifty (50) bushels, of corn, in basement sink; twenty-five bushels shelled corn in chest, one coil of old rope, three (3) baskets, one (1) heating coal stove & pipe, twelve thousand pounds shorts, (estimated;)
162 one hundred and seventy (170) bushels of corn-meal, one heating
coal-stove, six (6) barrels rectified spirits, (not full;) one lot leather fly-nets, one (1) buggy-top, thirteen (13) pieces timber, 6 × 12 & 10 to 14 feet long; one buggy-cushion, one whip, one lot still-timber, in distiller's yard; one single delivery-wagon, in hands of John Rodden; three (3) ricks of hay & straw, 100 tons, (estimated,) lot of T. S. Dobbins, west of cattle-sheds; one scoop-shovel, one keg of rectified spirits, not full; eight (8) barrels of rectified spirits, not full; one hundred and twenty-nine

(129) barrels of high wines, containing 5,839½ wine gallons, & 7,895$\frac{49}{100}$ proof gallons; one barrel high wines, not full; two barrels rectified spirits, not full; three barrels rectified spirits, not full; three barrels of cherry bounce, not full; one tin can and keg of coloring matter, ten (10) barrels of rectified spirits, in cisterns and leeches, has become, and is hereby, condemned as justly forfeited to the United States of America, 163 for the use as set forth in said information of libel, and that the same be sold by the marshal on execution in the same manner like property is sold on execution; and it is further adjudged and decreed that the United States have and recover of said claimant, J. H. Walliker, the costs of the trial of the issues raised by him, taxed at dollars, and that execution issue against him therefor; and it is further ordered that the said cause be continued for the trial of the issues made by said Thomas S. Dobbins, a claimant, in this answer.

164 COLLECTOR'S OFFICE, 2ND DIST. IOWA,
*Lyons, Dec.* 20, 1873.

Peter Melendy, U. S. marshal, to N. Boardman, D'r.

| | | | |
|---|---|---|---|
| | | To cash paid C. H. Werdt, for services as night watchman at the distillery seized, 8 days, at $2 per day | 16 00 |
| | " " | also same, 1½ days' labor | 3 00 |
| | Dec. 20. " | seizure of distillery & 8 miles travel | 1 80 |
| | " | cash paid for 3 padlocks on corn-cribs | 1 70 |
| 165 | Dec 29. | To supplemental seizure of corn & other property | 1 80 |
| | " | services of J. H. Smith as watchman and custodian of distillery & property from Dec. 20th, 1873, to Feb'y 19, 61 days, at $2.50 per day | 152 50 |
| | " | services of C. M. Pierce, as night watchman, from & including Dec. 28th, 1873, at the distillery, to and including Feb'y 19, 1874, 54 days, at $2 per day | 108 00 |
| | " | cash paid by J. H. Smith for salt, white lead, & hasp & steeple to preserve property | 1 30 |
| | Total | | $286 10 |

I hereby certify the above bill to be correct and services performed as therein charged.

N. BOARDMAN,
*Collector 2nd District of Iowa.*

166 United States circuit court, district of Iowa, May term, 1874.

FRIDAY, *June 5th*, '74.

THE UNITED STATES
*vs.*
LOT ONE IN BLOCK TWO AND OTHER PROPERTY in Comanche, Iowa.
No. 1768. Law.

This cause came on this day and, on motion of dist. att'y, it was ordered that the bill of N. Boardman, collector of revenue, for two hundred eighty-six $\frac{10}{100}$ dollars be allowed, and that the same be taxed as costs herein, and that the said be paid to said Boardman out of the proceeds of the sale of property herein.

167 In United States circuit court, district of Iowa.

THE UNITED STATES
*vs.*
LOT 1, BLOCK 2, IN CAMANCHE, IOWA, AND other property.

168 I, John E. Goodmough, Sam'l Knox, & A. B. Ireland, do solemnly swear that I will faithfully and impartially perform the duties of appraiser in the above-entitled cause, to the best of my ability, skill, and understanding.

(S'g'd) SAM'L KNOX.
A. B. IRELAND.
J. E. GOODMOUGH.

Subscribed & sworn to by Sam'l Knox, at Des Moines, Iowa, June 9th, 1874, before me.

(S'g'd) GEORGE B. CORKHILL, *Clerk.*

Subscribed & sworn to before me, by A. B. Ireland, June 10, 1874.

(S'g'd) GEORGE B. CORKHILL, *Clerk.*

169 United States circuit court, district of Iowa, May term, 1874.

FRIDAY, *May* 29, 1874.

THE UNITED STATES
*vs.*
LOT 1, BLOCK 2, COMANCHE, IOWA. } No. 1768. Law.

170 This cause coming on this day to be heard, on petition of Tho's S. Dobbins, admitted to defend herein as claimant of certain of said property, to have said property, to wit, lot 1 in block 2, except part conveyed by James Neil and Julia, his wife, to Mary C. Litting, by deed of the 5th of April, 1865, recorded b. two (2) of records of Clinton County; also, E. ½ block 2, except part sold to said Letting; also W. ½ of lot 2 in block (2) two, except 197 feet off front part on Eagle street; also lot 4 in block six, range 2, and the water lots on the Mississippi River, opposite to and of equal width with said lot 4, block 6, range two, (2,) all of said property being a part of said village, now city, of Comanche, in Clinton County, Iowa, and being the same property leased by the claimant to Sam'l H. Nissly for use as a distillery or flouring-mill.

Also, the flour-mill, distillery, bonded warehouse, boiler and engine house, cistern-house, office, corn-cribs, barn, and all other buildings thereon standing, and stills, wash-tubs, engine, boiler, and all the appurtenances, fixtures, appliances, tools, and implements contained in and appertaining or belonging thereto. 171

Also, eight wooden fermenting-tubs, 1 lumber-wagon, 1 one-horse delivery-wagon, 1 dump-cart, one harness for same, 1 set bob-sleds, 1 set double harness, 1 set single harness, 1 wheelbarrow, 3 fire-hooks and pokers, 4 scoop-shovels, cob-rake, 1 clipper fanning-mill, 280 fire-bricks, 1 stair-ladder, 1 iron beveled cog-wheel, detached; 1 piece of shafting, 6 feet long; 1 flue cleaner, 45 seamless sacks, 32 steel mill-picks, 4 Andrews' (detached) bolt-wheels, 2 wooden (detached) conveyers, 1 heating coal stove and pipe, 1 set Fairbanks No. 8 platform-scales, 1 Fairbanks 6000-lbs. steelyards, 1 *set* Fairbanks 1,700-lbs. steelyards, and six detached cog-

wheels; 2 old smutters, 2 pieces of gas-pipe, bow shape; sixty feet
172 (2 sections) rubber hose, 1½ in.; (50) fifty feet (1 section) rubber hose, 1 (one) inch; one hoe, one water-pail, tin yeast-can, 2 pipe-wrenches, 1 monkey-wrench, 1 sledge, ½ bbl. machine-oil, one tin sample metre, 1 copper hand-pump, 1 jack-screw, two (2) bung-borers, one coopers' adze, 1 tin thief, 1 hoop-driver, 1 coopers' scraper, 1 cold chisel, 1 wagon-chain, 1 crow-bar, 2 bars Babbit metal, 1 desk, 1 set hay scales, 14 empty barrels, (new;) 2 old empty barrels, ½ bbl. comp'n roofing, 1 old boiler in yard, 10 empty 5-gallon kegs, 1 empty barrel, 1 lot of harness-straps, 1 tin pump, 1 new doubler in George Tong's warehouse, leeches, cisterns, fixtures, &c., in rectifying department; 15 empty barrels, 105 empty barrels, one hay-shed on the Ben Duff lot, near distillery premises, delivered to him pendente lite, upon executing bond as required by law.

It is thereupon ordered and adjudged that said petition be
173 'granted, and that John E. Goodenough, of Maquoketa, Iowa, A. B. Ireland, of Comanche, Iowa, and Sam'l Knox, of Princeton, Iowa, be, and are hereby, appointed appraisers to inspect and appraise said property herein above-described at its fair cash-value, at the date of appraisement, and report the same to this court forthwith.

174 United States circuit court, district of Iowa.

I, George B. Corkhill, clerk of said court for said district, do hereby certify that the above and foregoing is a full, true, and complete copy of record-entry in a certain cause wherein the United States is plaintiff, and Lot 1, Block 2, Comanche, Iowa, &c., are def'ts, as full, true, and complete as the original of the same now remains of record in my office.

In testimony whereof I hereunto subscribe my name and affix the seal of said court at my office in Des Moines, in said district, this the 10th day of May, A. D. 1874.

[L. S.] GEORGE B. CORKHILL, *Cl'k.*

175 To the United States circuit court of the district of Iowa:

We, J. E. Goodenough, A. B. Ireland, & Sam'l Knox, appraisers appointed to appraise the property mentioned below, as also mentioned in the accompanying order, as furnished by the said court, wherein
176 Tho's S. Dobbins is claimant, do appraise the several articles as follows, to wit:

| | |
|---|---|
| South part of lot one, (1,) block two, (2,) including mill & fixtures, except such as is given in schedule below | $7,075 00 |
| All the south part of lot two, (2,) block two, (2,) except the Eagle Brewery lot sold by Neal to Litting | 800 00 |
| Also as much more of the east part of block two (2) as is indicated by the yard fence, and extending south to the river, being the south parts of lots (3,) three, four, (4,) and five, (5,) in block two, (2) | 250 00 |
| (This description does not agree with description furnished by the court.) | |
| One bonded warehouse, including fractional river lots, fronting lots (2,) two, (3,) three, and (4,) four, in block (6,) six, range (2,) two | 700 00 |
| Carried over | $8,825 00 |
| 177 Amount bro't over | $8,825 00 |

| | |
|---|---|
| Lot four (4) in block (6) six, including corn-cribs & barn | 350 00 |
| Office in the street | 75 00 |
| Hay-scales | 100 00 |
| One lumber-wagon | 15 00 |
| One 1-horse delivery-wagon | 40 00 |
| One dump-cart & harness | 25 00 |
| 1 set of bob-sleds | 30 00 |
| 1 set double-harness | 15 00 |
| 1 set single-harness | 10 00 |
| 1 wheelbarrow | 1 50 |
| 3 fire-hooks | 1 50 |
| 3 " pokers | 3 00 |
| 4 scoop-shovels | 2 00 |
| 1 cob-rake | 25 |
| 1 clipper fanning-mill | 15 00 |
| 280 fire-brick | 15 00 |
| 1 stair-ladder | .50 |
| 1 beveled cog-wheel | 6 00 |
| 1 piece of shafting (6 f't long) | 2 00 |
| 1 flue-cleaner | 50 |
| 45 sacks | 5 00 |
| 32 picks | 16 00 |
| 4 Andrews' bolt-reels (detached) | 20 00 |
| 2 wooden conveyers " | 10 00 |
| 1 heating coal-stove & pipe | 8 00 |
| 178 1 set Fairbanks No. 8 platform scales | 10 00 |
| 1 " " 6,000-lbs. steelyards | 20 00 |
| Carried over | $9,621 25 |
| Am't bro't over | $9,621 25 |
| 1 set Fairbanks 1,700-lbs. steelyards | 10 00 |
| 6 cog-wheels, (detached,) @ $3.00 | 18 00 |
| 2 old smutters, at $3.00 | 6 00 |
| 2 pieces gas-pipe (bow shape) | 2 00 |
| 60 f't 1½ in. rubber-hose (2 sect.) | 30 00 |
| 50 " 1 in. " " 1 (1 sect.) | 20 00 |
| 1 hoe | 25 |
| 1 pail | 25 |
| 1 tin yeast-can | 1 00 |
| 2 pipe-wrenches, at $1.50 | 3 00 |
| 1 monkey-wrench | 1 50 |
| 1 sledge-hammer | 1 50 |
| ½ bbl. machine-oil | 7 50 |
| 1 tin sample metre (supposed to be poor) | 25 00 |
| 1 copper hand-pump | 2 50 |
| 1 jack-screw | 2 50 |
| 2 bung-borers | 2 50 |
| 1 cooper's adz' | 1 00 |
| 1 tin thief | 25 |
| 1 hoop-dresser | 50 |
| 1 cooper's scraper | 50 |
| 1 cold-chisel | 25 |
| 1 wagon-chain | 1 50 |
| 1 crow-bar | 1 50 |

| | | |
|---|---|---|
| | 2 bars Babbit met*tle* | 1 00 |
| 179 | 1 desk in office | 5 00 |
| | 14 empty barrels (new) | 28 00 |
| | Carried over | $9,794 25 |
| | Am't bro't over | $9,794 25 |
| | 2 empty barrels (old) | 2 00 |
| | ½ barrel composition-roofing | 2 50 |
| | 1 old boiler in yard | 25 00 |
| | 10 empty 5-gal. kegs & 1 empty barrel | 16 00 |
| | 1 lot harness-straps | 1 00 |
| | 1 tin pump | 1 00 |
| | 1 new doubler | 25 00 |
| | Cisterns & fixtures in rectifying dep't | 250 00 |
| | 15 empty barrels (very old flour-barrels) | 75 |
| | 105 empty barrels (new) | 210 00 |
| | 1 hay-shed (on Daff lot) | 7 00 |
| | 6 fermenting-tubs, at $50 (2 short) | 300 00 |
| | | $10,629 50 |

The above is our appraisal of the real & personal property contained in the above list.

Witness our hands at Comanche, this 18th day of June, A. 1874.

J. E. GOODENOW.
A. B. IRELAND.
SAM. KNOX.

(Endorsed:) Filed Sept. 11, 1874. George B. Corkhill, clerk.

180 I, Peter Melendy, U. S. marshal for the district of Iowa, hereby certify and return that under and by virtue of the decree of
forfeiture, and order of sale of which the annexed is a certified copy, I
did, on the 24th day of June, A. D. 1874, sell at public auction, at Comanche, Iowa, on the premises where said property was situated,
181 the property in said decree ordered to be sold; schedule of
which and of price for which sold and name of purchaser is hereto
annexed, and made part of this return, in each item of which schedule
the purchaser named was the highest and best bidder.

Prior to the day of sale I advertised the same in the Daily Iowa State
Register, a newspaper published in the city of Des Moines, Iowa, for
four consecutive weeks, the first publication being the day of June,
1874. I also posted notices in three public places, as required by law in
case of sales under execution. I also, for the purpose of giving general
and more extended notice of the said sale, did cause to be published
brief notices thereof in the Inter Ocean, a newspaper published at
Chicago, Ill.; Omaha Republican, a newspaper published at Omaha,
Nebraska; S't Louis Democrat, a newspaper published in S't Louis,
Mo.; Dubuque Times, a newspaper published at Dubuque, I'a; and
182 the Clinton Herald, a newspaper published at Clinton, I'a; and on
the 24th day of June, A. D. 1874, at 10 o'clock a. m., I did offer
the said property for sale, and sell the same to the highest bidder,
as follows, to wit:

| | |
|---|---|
| 12 bushels of rye, @ 71c., to W. R. Hart | $8 52 |
| 20 “ “ oats, @ 40, Ja's Stone | 8 00 |
| 12,000 lbs. of shorts to A. A. Wagner | 12 00 |
| 60 bushels of barley, at 61c., to W. R. Hart | 36 60 |
| 60 “ of corn-meal, at 41 c'ts, to S. Hyman | 24 60 |
| 25 “ of shelled corn, at 43 c'ts, to James Stone | 10 75 |
| 1 basket, to H. Rodder | 45 |
| 1 “ to Thames | 25 |
| 1 “ “ F. G. Anthony | 55 |
| 1 coil of rope, to A. A. Wagner | 1 00 |
| 75 bushels of corn, at 45c., to J. Smith | 33 75 |
| 1 small rick of hay, to William Skiff | 5 00 |
| 1 large rick of hay, to A. A. Wagner | 26 00 |
| 1 large rick of hay to J. H. Smith | 16 00 |
| 183 1 scoop-shovel to A. A. Wagner | 30 |
| 13 pieces of timber “ “ “ | 10 00 |
| 1 wagon “ “ “ | 33 00 |
| 1 “ “ “ “ | 22 00 |
| 1 “ Tho's Hanohow | 62 00 |
| 1 wagon-seat to H. Carpenter | 4 25 |
| 1 buggy to J. McCloskey | 111 00 |
| 1 sorrel horse “ W'm Blake | 41 00 |
| 1 do “ A. A. Wagner | 66 00 |
| 1 “ “ “ A. A. Wagner | 100 00 |
| 1 gray “ “ “ “ | 101 00 |
| 1 set double harness “ “ “ | 12 00 |
| 850 bushels of corn, at 44¼ cents, to W. R. Hart | 376 13 |
| 1 coal-stove to A. A. Wagner | 2 50 |
| 1 saddle “ “ “ “ | 2 50 |
| 1 lot of pine strips “ “ “ | 3 25 |
| 1 “ “ “ “ “ “ “ | 2 00 |
| 1 “ “ slack coal “ “ | 2 50 |
| 1 lot of high wines, No. 2938 to 2965 inclusive, 1,649 gal'ons, at 16 c'ts, to A. A. Wagner | 263 84 |
| 1 lot of high wines, No. 2966 to 3003 inclusive, 2,285 gal'ons, at 16½ c't, to A. A. Wagner | 377 02 |
| 184 1 lot high-wines, Nos. 3004 to 3042 inclusive, 2,312 gallons, at 17½ c'ts, to A. A. Wagner | 404 60 |
| 1 lot of high-wines, Nos. 3043 to 3066, inclusive, 1,507 gal'ons, at 16½ c't', to A. A. Wagner | 248 65 |
| 32 gal's cherry bounce, at 13½ c'ts, to Tho's Lilly | 4 32 |
| 44 gal's whiskey, at 19 c'ts, to Dan Mueller | 8 36 |
| 43 gal's whiskey, at “ “ to Dan Mueller | 6 00 |
| 41 “ “ “ 15 c'ts to C. Block | 6 15 |
| 44 “ do. do., at 19½, to do. do | 8 59 |
| 42 “ do. do., at 19½, to Thams | 8 19 |
| 41 “ do. do., 19 c'ts, to Dan. Miller | 7 79 |
| 43 “ whiskey, at 19½, to Tho's Lilly | 8 40 |
| 43 “ “ at 19½, to A. Arp | 8 39 |
| 43 “ “ at 18 c'ts, to A. A. Wagner | 7 74 |
| 185 42 gal's whiskey, at 15½, to A. A. Wagner | 6 52 |
| 43 “ “ at 15½ cents, to B. Shutts | 6 67 |
| 42 gal's whiskey, do. do., to do. do | 6 52 |
| 48 “ “ at 15½ cents, to B. Shutts | 7 44 |
| 43 “ “ at 15½ c'ts, to B. Shutts | 6 69 |
| 43 “ “ at 15½ c'ts, to B. Shutts | 6 67 |
| 31 “ “ at 15½ cents, to B. Shutts | 4 80 |

| | |
|---|---|
| 2,000 bushels of corn, at 41½ cents, to S. Hyman | 830 00 |
| 1,700 bushels " " at 40½ cents, to S. Hyman | 688 00 |
| 32 sacks of malt, at $1.95, to W. A. Hart | 62 00 |
| 2 bbl. salt, at $2.25, to H. Smith | 4 50 |
| 9 " " " $2.20, " S. Hyman | 19 80 |
| 6,000 bushels of rye, at 81¾, to W. R. Hort | 1,308 00 |
| Total amount of sale | $5,461 43 |

186 I paid out as expenses of keeping the property, rents, &c., for which I produce vouchers, the following:

| | | |
|---|---|---|
| Paid J. H. Smith, for guarding the property | | $315 00 |
| " " " for *guager's* fees | | 21 00 |
| " Geo. A. Smith, for work | | 4 50 |
| " C. A. Price, night-watchman | | 260 00 |
| " N. Boardman, (bill allowed by court) | | 288 60 |
| " J. C. Smaller, for rent of crib | | 45 00 |
| " W'm Echerman " " " " | | 22 75 |
| " George Tong " " " warehouse | | 98 67 |
| | | $1,055 52 |
| " A. A. Wagner, for rent of crib | | 37 50 |
| " J. H. Smith, " stencil-plate | | 3 00 |
| " Inter-Ocean, for advertising | | 7 68 |
| " I. N. Manviller, auctioneer | | 30 00 |
| " A. B. Ireland, appraiser | | 37 90 |
| " Sam'l Knox, " (mileage) | | 20 00 |
| " J. E. Goodenow, " " | | 21 50 |
| " Express-charges on box to and from Lyons | | 6 50 |
| " " charges on box to & from Dubuque | | 4 00 |
| " Dubuque Times for advertising | | 6 00 |
| " Clinton Herald " " | | 13 50 |
| Paid State Register for publishing monition | | 12 50 |
| 187 " Omaha Republican for advertising sale | | 5 25 |
| " S't Louis Democrat " " " | | 9 50 |
| " J. H. Smith for work & watching | | 13 60 |
| And my fees, as follows: | | |
| Warrant of seizure & monition | 2 00 | |
| Mileage | 16 50 | |
| Proclamation | 30 | |
| Posting notices | 3 00 | |
| Service of execution | 2 00 | |
| Mileage to Comanche | 27 50 | |
| Posting notice sale, & printing | 13 00 | |
| Return of execution | 1 00 | |
| One day at sale | 1 00 | |
| Percentage on sale | 61 61 | |
| Mileage to attend sale | 27 50 | |
| | | 155 41 |
| Total expenditure | | $1,439 26 |
| Am't of sale, | 5,461 43 | |
| Disbursements, fees | 1,439 26 | |
| Balance in my hands | | $4,022 17 |

which I hold subject to the order of the court.

The spirits were sold, subject to the internal-revenue tax, and were
g*ua*ged, and the tax-paid stamps attached, and the packages
188 marked in the manner provided by law.

PETER MELENDY,
*U. S. Marshal for the District of Iowa,*
By S. S. ETHRIDGE, *Deputy.*

189 United States circuit court, district of Iowa. May term, 1874.

MONDAY, *June* 1, 1874.

THE UNITED STATES
*vs.*
LOT 1, BLOCK 2, IN COMANCHE, IOWA, AND THE distillery & other property.
No. 1768. Law.

This day this cause coming on to be heard, James T. Lane, attorney of the United States for the district of Iowa, appearing for the United States, and it appearing to the court that the warrant of arrest & monition in this case has been returned duly executed by the marshal, and this being the return-day for appearance, as fixed in said notice published by said marshal, on motion of the said district attorney public proclamation is made, and thereupon comes Thomas S. Dobbins, who makes claim as the owner of the following property described in said libel of information, to wit: lot 1 in block (2) two, except part conveyed
by James Neil and Julia, his wife, to Mary C. Littig by deed of
190 5th of April, 1865, recorded b. 2 of records, Clinton Co.

Also E. ½ of lot two, (2,) except part sold to said Littig.

Also W. ½ of lot two in block two, (2,) except 197 feet off front part in Eagle street.

Also, lot four (4) in block six, (6,) range two, (2,) and all opposite to and of equal width with lots No. two, (2 & 3,) three, in said block six, (6,) range two, (2,) all of said property being a part of said village, now city, of Comanche, in Clinton County, Iowa, and being the same property leased by Thomas S. Dobbins to Samuel H. Nissley, for use as a distillery or flouring-mill. Also, the flouring-mill, distillery, bonded warehouse, & boiler & engine house, cistern-house, office, corn-cribs, barn, and all other buildings thereon standing, and the machinery, still, wash-tubs, engine-boiler, and all the appurtenances, fixtures, appliances, tools, and implements contained in and appertaining or belonging thereto.

Also, 8 wooden fermenting-tubs, 1 lumber-wagon, 1 one-horse delivery-wagon, 1 dump-cart, 1 harness for same, 1 set bobb-sleds,
191 1 set double harness, 1 set single harness, 1 wheelbarrow, 3 fire-hooks & pokers, 4 scoop-shovels, 280 fire-bricks, 1 cob-rake, 1 clipper fanning-mill, 1 stair-ladder, 1 iron bevel cog-wheel, detached; 1 piece shafting, 6 feet long; 1 flue-cleaner, 45 seamless sacks, 32 steel mill-picks, 4 wooden (detached) bolt-wheels, 2 wooden (detached) conveyers, 1 heating coal-stove & pipe, 1 set Fairbanks No. 8 platform scales, 1 Fairbanks 6,000-lbs. steelyard, 1 set Fairbanks 1,700-lbs. steelyard, 6 detached cog-wheels, 2 old smutters, 2 p's gas-pipe, bow shape;
60 feet (2 sections) rubber hose, 1½ in.; 50 feet (1 section) rubber
192 hose, 1 in.; 1 hoe, 1 water-pail. 1 tin yeast-can, 2 pipe-wrenches,
1 monkey-wrench, 1 sledge. ½ bbl. machine-oil. 1 fire sample metre, 1 copper hand-pump, 1 jack-screw, 2 bung-bore's, 1 cooper's adz, 1 tin

thief, 1 hoop-driver, 1 cooper's scraper, 1 cold-chisel, 1 wagon-chain, 1
crowbar, 2 bars Babbits metal, 1 desk, 1 set hay-scales, 14 empty bar-
rels, new; 2 old empty barrels, ½ bbl. comp. roofing, 1 old boiler in yard,
10 empty five-gal. kegs, 1 empty barrel, 1 lot of harness-straps, 1 tin
pump, 1 new doubler, in Geo. Tong's warehouse; leeches, cisterns
193 fixtures, &c., in rectifying department; 15 empty barrels, 105
empty barrels, 1 hay-shed, in Benduff's lot, near distillery prem-
ises; and having submitted himself to the jurisdiction of the court, and
given bond for costs, files his answer & claim, and the trial of the issues
thereupon joined is continued.

Now, thereupon, comes J. H. Walliker, as sheriff of Clinton County,
State of Iowa, and makes claim, as such sheriff, by nature of a levy made
under sundry writs of attachment and execution against S. H. Nissley,
of the following property, to wit: 1 crib of corn, known as the Eckerman
crib, situated on lot 6, in block 13, range 2, in the city of Comanche, and
containing about 2,000 bushels of corn; five bins of rye, in bins 1, 2, 3,
4, & 5, in George Tong's warehouse, on lot 2, in block 5, range 1, in the
city of Comanche; one crib of corn, being the one known as the Smaller
Crib, on lot 34, block 4, in the city of Comanche; the corn in a crib on
lot 2, in block 6, range 1, in said city of Comanche; 95 empty barrels,
31 bags of malt, 1 rick of hay, 1 gray horse, and one spring-wagon;
also, one single harness, all in Comanche City, Clinton Co., Iowa; and
issue being thereupon joined, and the trial of said issues coming
194 on to be heard, both parties, plaintiff & defendant Walliker, hav-
ing in writing, in open court, waived a jury thereupon, the said
issues were tried by the court, and after hearing the testimony of the
witnesses and the argument of counsel, Mess' Hayes & Young appear-
ing as attorneys for said J. H. Walliker, the court being fully advised in
the premises, finds the issues in favor of the United States, and that
the matters and things set forth in said information are true, and that
said property so claimed, as aforesaid, by said J. H. Walliker, as sheriff,
as aforesaid, has become & is forfeited to the United States, & that
said Walliker has no claim thereto, and orders the same to be condemned
as forfeited to the United States.

And no person appearing as claimant to the remaining property described in said information, to wit, all the property contained & described in said information, except that which is claimed by said Dobbins & said Walliker, the court finds from the testimony has become & is justly forfeited to the United States, &, on motion of the district attorney, orders a decree of condemnation thereof.

195 It is, therefore, adjudged and decreed by the court that the fol-
lowing property, being all described in said information except
that part claimed by said Thomas S. Dobbins, as set forth in his answer,
to wit, one crib of corn, known as the Eckerman crib, situated on lot 6,
in block 13, range 2, in the city of Comanche, Clinton County, Iowa,
containing about 2,000 bushels of corn; five (5) bins of rye, in bins 1, 2,
3, 4, & 5, in George Tong's warehouse, on lot 2, block 5, range 1, in said
city of Comanche; 1 crib of corn, being the one known as the Smaller
Crib, on lot 34, in block 4, in the said city of Comanche; the corn in a
crib on lot 2, in block 6, range 1, in said city of Comanche; sixty (60)
bushels of malt, 1 rick of hay, 1 gray horse, 1 spring-wagon, 1 single
harness, eight (8) wooden fermenting-tubs, two (2) lumber-wagons, three
(3) sorrel horses, one set double harness, one and one-half tons lump
coal, twenty (20) tons slack coal, six (6) cords pine strips, twenty (20)
bushels of rye, (estimated,) one bin of fifty bushels of oats, (estimated,)
two bins fifty (50) bushels of corn in basement-sink, twenty-five bushels

shelled corn in chest, one coil of old rope, three (3) baskets, one
196 (1) heating coal-stove & pipe, twelve thousand pounds shorts, (estimated,) one hundred and seventy (170) bushels of corn-meal, one heating coal-stove, six (6) barrels rectified spirits, (not full;) one lot leather fly-nets, one (1) buggy-top, thirteen (13) pieces of timber, 6x12 & 10x14 feet long; one buggy-cushion, one whip, one lot still-timber in distiller's yard, one single delivery-wagon in the hands of John Rodden, three (3) ricks of hay & straw, 100 tons, (estimated;) lot of T. S. Dobbins, west of cattle-sheds; one scoop-shovel, one keg of rectified spirits, not full; eight (8) barrels rectified spirits, not full; one hundred and twenty-nine (129) barrels of high-wines, containing 5,839½ wine-gallons & $7,895\frac{49}{100}$ proof-gallons; one barrel high-wines, not full; two barrels rectified spirits, not full; three barrels rectified spirits, not full; three barrels of cherry bounce, not full; one tin can and keg of coloring-matter, ten (10) barrels of rectified spirits in cisternss & leeches, has become and is hereby condemned as justly forfeited to the United States of America for the use as set forth in said information of libel, and that the same be sold by the marshal, on execution, in the same manner like property sold on execution.

197 And it is further adjudged and decreed that the United States have and recover of said claimant, J. H. Walliker, the costs of the trial of the issues raised by him, taxed at dollars, and that execution issue against him therefor. And it is further ordered that the said cause be continued for the trial of the issues made by said Thomas S. Dobbins, as claimant, in his answer.

198 United States circuit court, district of Iowa.

I, George B. Corkhill, clerk of the said court for said district, do hereby certify that the above and foregoing is a full, true, and complete copy of the decree of condemnation in a certain cause wherein The United States is plaintiff and Lot 1, Block 2, in Comanche, Iowa, and the distillery and other property, is defendant, as full, true, and complete as the original of the same now remains of record in my office.

In testimony whereof I hereunto subscribe my name and affix the seal of said court, at my office in Des Moines, in said district, this th' second day of June, A. D. 1874.

[SEAL.] GEORGE B. CORKHILL, *Clerk.*

199 United States circuit court, district of Iowa, October term, 1874.

SATURDAY, *Oct.* 17, 1874.

THE UNITED STATES
*vs.*
LOT 1, BLOCK 2, IN CAMANCHE, IOWA, AND other property, T. S. Dobbins and others, claimants.
} No. 1768. Law.

This cause came on this day for hearing. Plaintiff appears by the district att'y, Ja's T. Lane, and claimants by E. J. Goode and Josiah Given; and then came a jury of twelve good and lawful men, to wit: S. B. Tuttle, John Penn, Tho's West, J. W. Caldwell, W. A. Lippincott, L. B. Fleek, C. W. Hobart, John Morrison, George Philpot, David Smart, James A. Price, D. R. Hoxie, who were duly empaneled
200 and sworn, as the law directs; and they having heard statement

of case from counsel and a portion of the evidence, were excused until 9 o'clock Monday morning.

201 United States circuit court, district of Iowa, October term, 1874.

Monday, *Oct.* 19, 1874.

The United States
*vs.*
Lot 1, in Block 2, in Camanche, & other property, Geo. Spurck, & Tho's S. Dobbins, claimants. } No. 1768. Law.

This cause came on this day for further hearing. Parties appear by their attorneys, and the jury came, the same as yesterday, and they, having heard further testimony, were excused until 8 o'clock to-morrow morning.

202 United States circuit court, district of Iowa, October term, 1874.

Tuesday, *Oct.* 20, 1874.

The United States
*vs.*
Lot One, in Block Two, in Camanche, Iowa, and other property, Geo. Spurck, & Tho's S. Dobbins, claimants. } No. 1768. Law.

This cause came on this day for further hearing. Parties appear by their attorneys, and the jury came, the same as yesterday; and they, having heard further evidence, were excused until 9 o'clock to-morrow morning.

203 United States circuit court, district of Iowa, October term, 1874.

Wednesday, *Oct.* 21*st*, '74.

The United States
*vs.*
Lot One, in Block Two, in Camanche, Iowa, & other property, Dobbins & Spurck, claimants. } No. 1768. Law.

This cause came on this day for further hearing. Parties appear by their attorneys, and the jury came the same as yesterday; and they, having heard a portion of argument by counsel, were excused until nine o'clock to-morrow morning.

204 United States circuit court, district of Iowa, October term, 1874.

Thursday, *Oct.* 22, 1874.

The United States
*vs.*
Lot One, in Block 2, in Camanche, Iowa, and other property, Thomas S. Dobbins, claimant. } No. 1768. Law.

This cause came on this day for further hearing. Parties appear by their attorneys, and the jury came the same as yesterday; and they, having heard conclusion of argument of counsel and charge of the court, retired to a private room, under charge of a sworn officer, to consider their verdict, and, after some time spent in deliberation thereon, returned into open court the following verdict:

205 "We, the jury, find the issues joined on the 1st assignment of grounds of forfeiture in the information for the Government.

(Signed) "S. B. TUTTLE,
"*Foreman.*"

"We, the jury, find the issue joined on the 2nd assignment of grounds of forfeiture in the information for the Government.

(Signed) "S. B. TUTTLE,
"*Foreman.*"

"We, the jury, find the issues joined on the 4th assignment of grounds of forfeiture in the information for the Government.

(Signed) "S. B. TUTTLE,
"*Foreman.*"

206 THE UNITED STATES
*vs.*
LOT 1, BLOCK 2, IN COMANCHE, IOWA, THO'S S. Dobbins, claimant.

Now comes the said Dobbins, claimant, by att'y, and moves the court in arrest of judgment and for a new trial in above cause.

207 1st. Because the court erred in the instructions given upon its own motion to the jury.

2nd. Because the court erred in refusing certain instructions asked by said claimant.

3rd. Because the verdict is contrary to the law & evidence submitted to them.

4th. Because the verdict is not supported by the evidence.

(Signed) J. GIVEN.
E. J. GOODE,
*Att'ys for Claimant.*

(Endorsed:) Filed Oct. 23, 1874. George B. Corkhill, clerk.

208 United States circuit court, district of Iowa, October term, 1874.

SATURDAY, *Oct.* 24, '74.

UNITED STATES OF AMERICA
*vs.*
LOT 1, BLOCK 2, IN CAMANCHE, IOWA, AND other property, and T. S. Dobbins, claimant.
No. 1768. Law.

This day this cause coming on to be heard on the motion of the claimant, T. S. Dobbins, to set aside the verdict of the jury rendered in this case and for a new trial, Mess' E. J. Goode and Josiah Given appearing as attorneys for the said claimant, and James T. Lane, U. S. dist. attorney, appearing for the said United States, after hearing the arguments of counsel, the court being duly advised in the premises, overrule the said motion to set aside the verdict and for a new trial, to which the said claimants
209 excepts and is allowed time during term to settle bill of exceptions, and on motion of the said district attorney of the United States, order a decree of forfeiture to be entered upon said verdict. It is therefore considered, adjudged, and decreed by the court that

the property seized as alleged in the information, and which is claimed in the petition of the claimant, T. S. Dobbins, situated in the city of Camanche, in the county of Clinton, and State of Iowa, to wit, lot 1 in block two, (2,) except part conveyed by James Neil and Julia, his wife, to Mary C. Lettig, by deed of 5th of April, 1865, recorded in book 2 of records of Clinton County; also, E. ½ block two, (2,) except part sold to said Lettig; also, W. ½ of lot two, (2,) in block two, (2,) except 197 feet off front part on Eagle street; also, lot four, (4,) in block six, (6,) range two, (2,) and the water-lots on the Mississippi River opposite to and of equal width with said lot four, (4,) block six, (6,) range two, (2,)
210 and all opposite to and of equal width with lots 2 & 3 in said block
six, (6,) range two, (2,) all of said property being a part of said village, now city of Camanche, in Clinton County, Iowa, and being the same property leased by the claimant to Samuel H. Nissley for use as a distillery or flouring-mill.

Also, the flour-mill, distillery, bonded warehouse, boiler and engine-house, cistern-house, office, corn-cribs, and all other buildings thereon standing, and the machinery, still, wash-tubs, engine, boiler, and all the appurtenances, fixtures, appliances, tools, and implements contained in and appertaining or belonging thereto. Also, 8 wooden fermenting-tubs, 1 lumber-wagon, 1 one-horse delivery-wagon, 1 dump-cart, 1 harness for same, 1 set bob-sleds, 1 set double harness, 1 set single harness, 1 wheelbarrow, 3 fire-hooks & pokers, 4 scoop-shovels, cob-rake, 1 Clipper fanning-mill, 280 fire-bricks, 1 stair-ladder, iron beveled cog-wheel detached, 1 piece shafting 6 ft. long, 1 flue-cleaner, 45 seamless sacks, 32
211 steel mill-picks, 4 Andre's detached bolt-reels, 2 wooden detached
conveyers, 1 heating coal-stove & pipe, 1 set Fairbanks No. 8 platform-scales, 1 Fairbanks 6,000-lbs. steelyards, 1 set Fairbanks 1,700-lbs. steelyards, & 6 detached cog-wheels, 2 old smutters, 2 pieces gas-pipe, (bow-shape,) 60 feet (2 section') rubber hose 1½ in., 50 feet (1 section) rubber hose 1 in., 1 hoe, 1 water-pail, tin yeast-can, 2 pipe-wrenches, 1 monkey-wrench, 1 sledge, ½ bbl. machine-oil, one tin sample-metre, 1 copper hand-pump, 1 jack-screw, 2 bung-bore's, 1 cooper's adz, 1 tin thief, 1 hoop-driver, 1 cooper's scraper, 1 cold-chisel, 1 wagon-chain, 1 crowbar, 2 bars Babbit metal, 1 desk, 1 set hay-scales, 14 empty barrels, (new,) 2 old empty barrels, ½ bbl. comp. roofing, 1 old boiler in yard, 10 empty five-gallon kegs, 1 empty barrel, 1 lot of harness-straps, 1 tin pump, 1 new doubler, in George Tong's warehouse; leeches, cisterns, fixtures, &c., in rectifying department; 15 empty barrels, 105 empty barrels, 1 hay-shed on the Ben. Duff lot, near distillery premises, be, and the same is hereby, adjudged and de-
212 creed to be condemned as forfeited to the United States of Amer-
ica, and the same is ordered to be sold by the marshal on writ of vendition' exponas. And it further appearing to the court that the claimant, T. S. Dobbins, has made & filed a bond for costs in the sum of one thousand dollars with Samuel Coskery as surety, it is further ordered and adjudged that the said plaintiff have and recover of and from the said T. S. Dobbins and Samuel Coskery, surety as aforesaid, all the costs which have accrued in this case since the date of the filing of the claim of said T. S. Dobbins, which said costs are hereby taxed at dollars, and that plaintiff have execution therefor.

213 UNITED STATES
*vs.*
LOT 1, BLOCK 2, IN COMANCHE, IOWA, & T. S. Dobbins, claimant.

Be it remembered that on the trial of above cause, a

1 October term, 1874, the plaintiff offered in evidence the statements and declarations of said Nissly while under arrest, and afterwards vol-
214 untarily made, and without threats or coercion, as tending to show
a fraudulent intent, in the doing of acts, and omitting to do acts, as assigned in the libel, which evidence was objected to by the claimant Dobbins as incompetent and immaterial as against him, but the objection was overruled by the court and the testimony admitted; to which ruling of the court the claimant Dobbins excepted at the time, which was allowed.

2 2. The plaintiff also offerred in evidence certain private books, letters, and memoranda, found in an open box in a room in a building adjacent to the distillery, used by Nissly as a private office, and there was evidence tending to show that the room in question was so occupied by Nissly up to the time the books were seized by the
215 officers. These books and papers bore on their face evidence
tending to show that they were Nissly's books and papers, and in part related to the business of Nissly's distillery. Among the papers were letters addressed to Nissly, and some of them were from claimants in reference to lease of the distillery, to which the claimant objected, but his objection was overruled by the court, and said evidence admitted; to which the claimant excepted at the time, which exception was allowed by the court.

3 3rd. The plaintiff also offered in evidence certain letters and bills of lading found by the officers in an open box in a room occupied and used by Nissly as an office, purporting to be from the firm of Currie, King & Co., of S't Louis, Mo., tending to prove the shipment to them by
216 Nissly of large quantities of high-wines & liquors not shown
in Nissly's books. These letters and bills of lading were addressed to Samuel Nissly, and both Currie & King testified to the receipt from Nissly's distillery at Comanche of large quantities of high-wines, and that they rendered accounts to him of the sales as commission-merchants. from time to time, to which claimants objected as incompetent, which objection was overruled by the court, and said testimony admitted: to which ruling of the court the claimant *ac*cepted at the time, which exception was allowed by the court.

4 4. The Government survey being in evidence, and testimony having been given to show that the capacity of the distillery had been subsequently reduced, the plaintiff offerred evidence tending to show what the actual production of the distillery was, and the difference be-
217 tween the actual production and the amount accounted for by the
payment of tax and on the books of Nissly.

To which evidence the defendant objected, but the objection was overruled, and the testimony given to the jury.

Whereupon the claimant at the time excepted, which was allowed.

5th. It appeared in evidence that a shed-room adjoining the bonded warehouse was occasionally used by Nissly for storing barrels and by the gauger for gauging and branding barrels to be placed in bond, and also that a part of a barrel of high-wines was kept therein by Nissly for the purpose of filling up barrels taken out of bond on account of outage ccurring while in bond, which filling was done by an employee of Nissly the presence usually of the plaintiff's officers.

It also appeared that Nissly's teams were on two occasions
18 seen hawling away from that shed barrels, apparently of high-
wines, at the hour of noon, openly and publicly.

It also appeared that this shed was the usual outlet or ga*it* from the onded warehouse for packages taken out of bond, and that, some pack-

ages so delivered to Nissly out of bond were frequently left in the shed
over night, when he could not complete the carriage of them during the day.
There was also evidence tending to show that on the occasion referred to
the barrels of high-wines were rolled by Nissly around the cistern-room
and out through the shed, which was locked at the time; that the
officers left at noon, but that one of them, from a place of concealment,
saw Nissly unlock the shed, and roll out from it and load on his wag-
ons the barrels so taken out of the shed. There were eleven bar-
219 rels seen by the office' in the shed in the morning, by looking
through the crock in the door, and after his return from dinner the
shed was open, and there were only three barrels in it.

The evidence tended to show that these barrels were taken out by Nissly secretly, or at least after the officers had gone away.

Thereupon the claimant, Dobbins, asked the court to charge the jury
that, if the acts of said Nissly touching said barrels in said shed, and
his use of the same, and the filling up for outage of barrels taken from
the bond, were done and committed with the knowledge and concurrence
of the officers in charge of said distillery, or resulted from their fraud or
negligence, then they must find against the plaintiff upon that branch 5
of the case, and that such acts were not fraudulent as to Nissly; which
instruction the court refused to give, but charged the jury, if
220 they found from the evidence before them that Nissly committed
the acts aforesaid with intent to defraud the Government, and that
he did thereby defraud the revenue, the consent, participation, or com-
plicity of the officers of the Government in charge of the distillery
would not relieve him, but rather aggravate his offence. To which
charge of the court the claimant then and there excepted, which excep-
tion was allowed.

It appeared on evidence that the seizure of the property in contro-
versy was made on the 18th day of December, 1873, and that the libel
or information was not filed till day of February, 1874, and there-
upon the claimant asked the court to charge the jury that the prosecu-
tion was barred by the limitation of twenty days, made under the pro-
viso of the 25 section of the act of 1867, which was refused by the 6
221 court; to which the claimant at the time excepted. The claimant
also asked the court to charge the jury that section 47 of the act
of 1868 applies only to illicit distilleries running and being operated
without a license and bond, and that there could be no forfeiture in this
case under the provisions of that section, which instruction was refused,
and the claimant at the time excepted.

And thereupon the court, of its own motion, instructed the jury as follows:

1st. That if the evidence satisfied the jury that Nissly made sales of
spirits produced by him which he omitted or neglected to enter on his
books, with intent to defraud the Government, or conceal from the offi-
cers the fact of such sales, then he would be guilty, and it would be the'
duty to find for the plaintiff under the first article of the informa-
tion.

222 2. That although the mere absence of Nissly from the State or
the United States is not of itself, as the claimant well avers and
claims, evidence upon which the jury could base a verdict for the Gov-
ernment, yet if the jury find that he absconded and fled from justice
upon being detected and charged with the frauds alleged against him
in this case, that fact may be considered by the jury, with other evi-
dence, as tending to prove his fraudulent intents and guilt.

3rd. That this is a proceeding to condemn and forfeit to the U. S.

certain property, both real and personal, for alleged offences against the revenue laws.

The property in question consists of a distillery, with its fixtures and
apparatus, and the ground within the enclosure on which the distillery
stands, together with the various articles of personal property
223 enumerated in the information before the jury.

Dobbins, the present defendant, is the claimant of the property, contesting the grounds of forfeiture assigned by the Government in the information.

That the gist of this proceeding consists in the alleged fraudulent acts and omissions of Nissly or his agent and employees, and whether the charges against Nissly be positive acts, done by him, or omissions to do what the law required of him as a distiller, fraud is a necessary element in the case, without which there can be no forfeiture.

That it is unnecessary for the jury to find that the claimant, Dobbins, was implicated in the frauds of Nissly, or that he had any knowledge of Nissly's fraudulent acts or omissions.

If the jury find that Dobbins, the claimant, leased the property
224 to Nissly for the purposes of a distillery, and to carry on that
business upon the premises, and that Nissly committed the alleged frauds, the Government is entitled to a verdict, even though the jury should be of opinion that the claimant was ignorant of the fraudulent acts or omissions of Nissly.

The Government claims a forfeiture under the first, second, and third articles of the information.

The jury will not consider any grounds of forfeiture not stated and assigned in said 1st, 2nd, & 3rd articles.

To each and every and all of which said rulings and instructions the claimant at the time excepted, and prayed the court to sign this his bill of exceptions; which is accordingly done, and the same is ordered to be made a part of the record.

(Signed) J. M. LOVE, [SEAL.]
*Judge.*

225 In the Supreme Court of the United States.

THOMAS S. DOBBINS, PL'FF IN ERROR,
*vs.*
THE UNITED STATES, DEF'T IN ERROR. } Bond.

Know all men by these presents that we, Thomas S. Dobbins, as principal, and George Spurck, as suret*ies*, are held and firmly bound unto the United States in the sum of twenty thousand dollars, to be paid to the United States, its lawful agent, or attorney, to which payment, well and truly to be made, we bind ourselves and each of us, jointly and severally, and our heirs, executors, and administrators, firmly by these presents, sealed with our seals and dated this 31st day of October, A. D. 1874.

Whereas the above-named Thomas S. Dobbins has prosecuted a writ of error to the Supreme Court of the United States to reverse the judgment rendered in the above-entitled cause by the circuit court of the
United States in and for the district of Iowa:

226 Now, therefore, the condition of this obligation is such, that if
the above-named Thomas S. Dobbins shall prosecute his said
writ of error to effect and answer all damages and costs, if he shall

fail to make good his plea, then this obligation to be void; otherwise the same to remain in full force and virtue.

(Signed) THOMAS S. DOBBINS. [SEAL.]
GEORGE SPURCK. [SEAL.]

Sealed & delivered in the presence of—
Signed & sealed by Thomas S. Dobbins in presence of—
W. T. HUGHES.
Signed & sealed by George Spurck in presence of—
D. McCULLOUGH,
*U. S. Com'r.*

The above bond is approved by me.
(Signed) JOHN F. DILLON, *Judge.*

I hereby certify that the words "twenty thousand" were written in the foregoing bond by E. J. Goode, att'y at law, of Des Moines, in my presence, in pursuance of the authority given him in writing by the surety named in this bond.

[SEAL.] Attest. GEORGE B. CORKHILL, *Clerk*,
By E. R. MASON, *Deputy.*

(Endorsed:) No. 1768. Law. United States vs. Lot 1, Block 2, Camanchee, Iowa. Thomas S. Dobbins, claimant. Writ of error bond. Filed Dec. 12, 1874.

GEORGE B. CORKHILL, *Clerk.*

227 UNITED STATES OF AMERICA,
*Northern District of Illinois, ss:*

George Spurck, being first duly sworn, on his oath states that he owns in his own right, and unincumbered, real estate, situate in the county of Peoria, and State of Illinois, of at least the value of one hundred thousand dollars, and that he is worth over and above all his debts at least the sum of one hundred thousand dollars, and further saith not.

(Signed) GEORGE SPURCK.

Be it remembered that on this 9th day of November, A. D. 1874, personally came before me, a commissioner of the circuit court of the United States within and for said district, George Spurck, who, being duly sworn by me, made oath that the foregoing affidavit by him subscribed is true.

(Signed) DAVID McCULLOCH,
[SEAL.] *U. S. Commissioner.*

(Endorsed:) Aff't of Geo. Spurck. Justifies to $100,000.00. Filed Dec. 12. 1874. George B. Corkhill, clerk.

228 Whereas I have, as security for Thomas S. Dobbins, signed a certain bond to the United States of America for the purpose of obtaining a writ of error to operate as a supersedeas in a certain cause wherein the United States of America are plaintiffs and said Dobbins is defendant, in which said bond the penalty is left blank, I hereby authorize E. J. Goode, att'y at law, of Des Moines, Iowa, to fill in said blank with such penalty as the court rendering said judgment may require, hereby ratifying his acts in the premises.

Peoria, Ill., Nov. 9, 1874.

(Signed) GEORGE SPURCK. [SEAL.]

Signed & sealed in presence of—
D. W. McCULLOCH,
*U. S. Com'er.*

Nov. 9, 1874.

(Endorsed:) United States vs. Dobbins. Authority to fill blank in bond as to Geo. Sparck. Filed Dec. 12, 1874. George B. Corkhill, clerk.

229 UNITED STATES OF AMERICA, *ss:*

To the United States and to James T. Lane, U. S. attorney for the district of Iowa, greeting:

You are hereby cited and admonished to be and appear at the Supreme Court of the United States to be holden on the second Monday in October next, 1875, pursuant to a writ of error filed in the clerk's office of the circuit court of the United States for the district of Iowa, wherein Thomas S. Dobbins is plaintiff in error and the United States is defendant in error, to show cause, if any there be, why the judgment in said writ of error mentioned should not be corrected and speedy justice should not be done to the parties in that behalf.

Witness the honorable Jno. F. Dillon, judge of the circuit court of the United States for the district of Iowa, this 10th day of December, 1874.

JOHN F. DILLON.

230 The within writ presented by the U. S. marshal and due and legal service thereof hereby acknowledged, this 15 day of December, A. D. 1874.

JAMES T. LANE,
*U. S. Dist. Attorney.*

This writ came into my hands Dec. 14, 1874, and on the 15th of Dec., 1874, I served it on Ja's T. Lane, U. S. dist. att'y, at Davenport, as per his acceptance endorsed hereon.

PETER MELENDY,
*U. S. Marshal,*
By S. S. ETHRIDGE,
*Deputy.*

Service, $2.00; mileage, 10.50—$12.50.

(Indorsed:) No. 1768. Law. United States vs. Lot 1 in Block 2, in Camanche, Iowa, & Tho's S. Dobbins, claimant. Citation. Filed Dec. 16, 1874. George B. Corkhill, clerk.

(Indorsement on cover:) No. 145. Thomas S. Dobbins, plaintiff in error, vs. The United States. Iowa, C. C. U. S. Filed 29th September, 1875.

(Endorsed:) United States vs. Dobbins. Authority to fill blank in bond as to Geo. Sparck. Filed Dec. 12, 1874. George B. Corkhill, clerk.

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PETER MELENDY,
*U. S. Marshal,*
By S. S. ETHRIDGE,
*Deputy.*

Service, $2.00; mileage, 10.50—$12.50.

(Indorsed:) No. 1768. Law. United States vs. Lot 1 in Block 2, in Camanche, Iowa, & Tho's S. Dobbins, claimant. Citation. Filed Dec. 16, 1874. George B. Corkhill, clerk.

(Indorsement on cover:) No. 145. Thomas S. Dobbins, plaintiff in error, vs. The United States. Iowa, C. C. U. S. Filed 29th September, 1875.

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# Supreme Court of the United States.

THOMAS S. DOBBINS,
*Plaintiff in Error,*
VS.
THE UNITED STATES,
*Defendant in Error.*

*Error to Circuit Court of District of Iowa.*

## BRIEF OF PLAINTIFF IN ERROR.

A. L. MERRIMAN,
R. G. INGERSOLL,
*Att'ys. for Plaintiff in Error.*

R. O. Polkinhorn, Printer, 632 and 634 D Street, Washington, D. C.

# Supreme Court of the United States.

THOMAS S. DOBBINS,
*Plaintiff in Error,*
vs.
THE UNITED STATES,
*Defendant in Error.*

*Error to Circuit Court of District of Iowa.*

## BRIEF OF PLAINTIFF IN ERROR.

### Statement of Case.

Plaintiff was owner of a distillery and fixtures in the town of Camanche, Iowa, which he leased to one Samuel H. Nissley, who carried on the business of distilling therein. The term of said lease is not shown, nor does it appear that the owner executed the consent and stipulation provided in the 8th section of the internal revenue act, of July, 1868. On the 18th of December, 1873, the said distillery, fixtures, apparatus, and a quantity of personal property, grain, &c., were seized for an alleged infraction by said Nissly of the revenue laws.

February 11, 1874, a libel was filed against said property, as the property of said Nissley, consisting of sixteen specifications of charges, three of which are only to be noted, for the reason that the United States, on the trial, abandoned all but the three first specifications.

1st. That said Nissley made false entries, and omitted to make true entries in his books with intent to defraud and conceal, &c., under the 19th section of said act of July 20, 1868.

2d. That said distilled spirits, and wines, and said stills and other apparatus, &c., were owned by said Nissley and a person unknown, which said person or persons engaged in, and carried on the business of a distiller with intent to defraud, &c., against the 44th section of said act.

3d. That said distilled spirits, &c., were found in a certain distillery, and in a certain room, building, room, yard and enclosure connected therewith, and used with and constituting part of said premises, and that said Nissley did carry on the business of a distiller with intent to defraud, &c., against said 44th section of said act of 1868.

May 29, 1874, plaintiff in error petitioned the court and was permitted to intervene as owner and claimant to contest such libel. Record, p. 35.

At the October Term of the court, the case came to trial on the issues made as to plaintiff in error, no service having been had on said Nissley. On which trial the plaintiff below offered in evidence, statements and declarations of said Nissley, while under arrest and afterwards, without threats or coersion as tending to show a fraudulent intent in doing acts and omitting to do acts as assigned in the libel, which evidence was objected to by claimant and exceptions taken. (Par. 1 of Bill of Exceptions, p. 52.

Exception was also taken to admitting in evidence certain private books, letters and memoranda, found in a building adjacent to the distillery, occupied by Nissley as a private office, among which, were letters purporting to be from Currie, King & Co., of St. Louis, Mo., tending to prove shipments of large quantities of high wines and liquors, not shown in Nissley's books. Currie & King testifying to the receipt from Nissley's distillery, of large quantities of high wines, and that they rendered accounts to him of the sale thereof, from time to time. Record, p. 52, par. 2 and 3.

Evidence being introduced tending to show that Nissley kept spirits in a shed for the purpose of filling up outage of barrels taken from bond, with the knowledge and concurrence of the revenue officers, the claimant asked the court to instruct the jury that such acts were not fraudulent, which was refused, but charged the jury that if such acts were done for the purpose of defrauding the revenue, the consent and participation, or the complicity of the officers of the Government therein aggravated the offense, which was also excepted to by the claimant.

The court further charged the jury, among other things, that it was unnecessary to find that claimant was implicated in the frauds or had any knowledge of them. That if he leased the property to Nissley for the purpose of a distillery and to carry on that business on the premises, and that Nissley committed the frauds, the Government was entitled to a verdict even though the jury should be of the opinion that claimant was ignorant of the fraudulent acts or omissions of Nissley. (Record, p. 54.)

No forfeiture was claimed except on the 1st, 2d, and 3d articles of the information. (Record, 54.)

The jury found a verdict for the Government on the 1st, 2d, and 4th assignments of grounds of forfeiture. (Record, p. 54.)

Claimant moved for a new trial for causes shown, which was overruled and exceptions taken thereto, and the court rendered judgment of condemnation of the property described. (Record, pp. 50, 51.)

## Assignment of Errors.

The plaintiff in error assigns the following errors in said record:

1st. That the court erred in admitting evidence of the statements of said Nissley, as contained in paragraph (one) of the bill of exceptions.

2d. The court likewise erred in admitting the evidence as contained in paragraphs (two) and (three) of said bill of exceptions.

3d. That the court erred in charging the jury as follows: "That it is unnecessary for the jury to find that the claimant, Dobbins, was implicated in the frauds of Nissley, or that he had any knowledge of Nissley's fraudulent acts or omissions.

"If the jury find that Dobbins, the claimant, leased the property to Nissley for the purposes of a distillery and to carry on that business on the premises, and that Nissley committed the alleged frauds, the Government is entitled to a verdict, even though the jury should be of opinion that the claimant was ignorant of the fraudulent acts or omissions of Nissley."

4th. The court erred in rendering judgment of condemnation or forfeiture of said real estate upon the verdict.

## Points.

### I.

Statements made by Nissley, not at the time of the commission of the acts, but long after, and after his arrest, are not evidence against claimant or his property.

Wharton's Am. Crim. Law, 325, 3d Ed.,

Wherein is quoted the following case:

"Thus in an indictment against the owner of a ship for "violation of the statutes against the slave trade; testi-"mony of the declaration of the master being part of the "*res gestae* connected with acts in furtherance of the voy-"age and within the scope of his authority as agent of the "owner in the conduct of the guilty enterprise, is admis-"sible against the owner. When, however, the common "enterprise is at an end, whether by accomplishment or "abandonment, it is not material. No one is permitted "by any subsequent act or declaration of his own, to af-"fect the others.

Such statements not being *res gestae*, and being made by a person having no interest or connection with the property, can not be construed as admissions or confessions binding the person or property of others. The simple admission of Nissley long after the admitted acts had been done, is not sufficient to deprive the plaintiff in error of his property. Such a doctrine is monstrous. A man who has committed no offence himself, cannot be robbed by the simple admission of a man who has.

It is admitted, that the plaintiff in error was not a party to any fraud; that he was guilty of no negligence, that he was simply the owner of the property. Under these circumstances, the court below allowed to go to the jury, as evidence, the unsworn admission of Nissley, the lessee.

We insist that such is not the law. A citizen should not in this manner be divested of his property.

## II.

The admission in evidence of letters and bills of lading, purporting to be from Currie & King to Nissley, as found in Nissley's office, without identification, although the said Currie & King were examined as witnesses, was contrary to all well established rules of evidence, and tended to mislead the jury as to the facts; and the fact that such letters and bills of lading were not shown to Currie & King, witnesses on the stand, leads to the presumption that such letters and bills were not genuine.

It being a rule of evidence that the best evidence shall be produced, it is proper to consider what is the best evidence in cases of this nature. Acts must be proven to have been actually committed by the distiller, and statements made by him long afterwards, or papers not identified, found in his room long after the acts are said to have been committed, are not evidence against another.

As a matter of fact, it would not be sufficient to take the property of the plaintiff in error, even if Nissley had been convicted, if such conviction was obtained merely upon admissions of Nissley. There must be other evidence.

## III.

On the trial, the prosecution abandoned all of the counts in the libel except the first, second, and third counts. (See page 54, printed Record.) The first count was for a violation of the 19th section of the act of July, 1868, which provides, "That if any false entry shall be made in the books required to be kept by such distiller, or any omission to make any entry required, the distiller shall forfeit and pay a penalty of $1,000; and further provides that if any such false entry be made or omitted, with intent to defraud, &c., the distillery, distilling apparatus, and the lot or tract of land on which it stands, and all personal property of every kind and description on said premises, used in the business there carried on, shall be forfeited to the United States, and the person making such entry or omitting to make such entry, with the intent aforesaid, shall be fined not less than $500 nor more than $5,000, and imprisoned not less than six months nor more than five years."

The second and third counts were based upon the forty-fourth section of the act of July, 1868, which provides, "That any person who shall carry on the business of a distiller * * * with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, for every such offence be fined not less than $1,000, nor more than $5,000, and imprisoned not less than six months, nor more than two years. And all distilled spirits, wines, and all stills, or other apparatus, fit, or intended to be used for, the distillation or rectification of spirits, or for the compounding of liquor, *owned by such person*, wherever found, and all distilled spirits or wines, or personal property, found in the distilling or rectifying establishment, or in the store, or other place of business of the compounder, or in any building, room, yard, or enclosure, connected therewith, and used with, or constituting a part of such premises, and all the right, title, and interest of such person therein, in the lot or tract of land on which such distillery is situated, and all right, title, and interest therein of every person who *knowingly* has suffered or permitted the business of a distiller to be there carried on, or has *connived* at the same, * * * shall be forfeited to the United States."

The jury found for the United States on the first, second, and fourth counts, or specifications. The verdict must stand on the first, and second, for the reason that defendant in error abandoned the fourth count or specification, as appears upon page 54 of the printed record.

We must then consider that the jury found for the United States, only upon the first and second counts or specifications, and virtually for the plaintiff in error on the third. There was, in fact, no evidence in support of the third count: on the contrary, it was admitted that plaintiff in error did not connive at any fraud.

The entire case then rests upon the first and second counts. The question is whether the violations of law set out in the first and second counts, by Nissley, forfeits to the United States the property of plaintiff in error.

The first count is for a violation of the 19th section, and the second count for a violation of the first clause of the 44th section of the act of July, 1868.

The 44th section provides for the forfeiture—first, of the property of the fraudulent distiller, and, second, for the forfeiture of the property of any one who aids, abets, or in any way connives or knowingly, has suffered distilling to be thus carried on. The second count, however, only covers a part of the 44th section, to wit: "The distilled spirits and wine, and the stills and other apparatus then and there being fit and intended to be used for the distillation of spirits *owned by said Nissley, or the person carrying on the distillery.*" The evidence is that Nissley carried on the distillery, but did not own the property. He had only a lease.

Under the second count the property could not be forfeited, unless it belonged to Nissley. The plantiff in error did not carry on the distillery, did not commit any fraud. He simply owned the property.

The first count is framed under the 19th section. That section must be construed in connection with the 8th section of the same act. Every subsequent section takes it for granted that the 8th section has been complied with. The 8th section is as follows:

"That no bond of a distiller shall be approved unless he is the owner, unincumbered, &c., of the lot or tract of land on which the distillery is situate, or unless he files with the assessor, in connection with his notice, the written consent of the owner in fee, * * * duly acknowledged, that the premises may be used for the purpose of distilling spirits, subject to the provisions of law, and expressly stipulating that the lien of the United States for taxes and penalties shall have priority of such mortgage, &c.; and that, in case of the forfeiture of the distillery premises, or any part thereof, the title of the same shall vest in the United States, discharged from any such mortgage, judgment, or other incumbrance. In any case where the owner of a distillery or distilling apparatus erected prior to the passage of this act has an estate for a term of years only in the lot or tract of land on which the distillery is situated, the lien or other evidence of title to which shall have been duly recorded prior to the passage of this act, the value of such lot or tract of land, together with the building and distilling apparatus, shall be appraised in the manner to be prescribed by the Commissioner of Internal Revenue; and the assessor is hereby authorized to accept, in lieu of such written consent of the owner, in fee, the bond of said distiller, with not less than two sureties, residents, &c., and owners of unincumbered real estate in said district or county, or adjoining county, equal to such appraised value."

In this case there is no evidence that the plaintiff in error ever gave any written consent "that the premises "might be used for the purpose of distilling spirits, sub-"ject to the provisions of law, and stipulating that the "lien of the United States for taxes and penalties shall "have priority, and that in case of the forfeiture of the "distillery premises the title shall vest in the United "States." *The plaintiff in error gave no such consent.* He was the owner in fee. The lease was given before the passage of the act of 1868. The assessor had the right to allow Nissley to run without the written consent of the real owner, provided bond was given, as required by the 8th section.

As the plaintiff in error leased the property before the passage of the act of 1868, his property cannot be forfeited under that act unless he gave his consent in writing, or was a party to the fraud. It was incumbent upon the United States to prove either that he did give consent in writing or that he connived at the fraud. The United States did neither.

All the counts having been abandoned except the first, second, and third, and the jury having found only the facts in the first and second to be true, it is upon the first and second counts this case must stand.

It cannot be maintained upon the first count, because,

*First.* The plaintiff in error never gave his consent and stipulation in writing under the 8th section.

*Second.* The plaintiff in error was not in any way a party to the fraud.

It cannot be maintained upon the second count, because,

*First.* The plaintiff in error was not carrying on the distilling business.

*Second.* The plaintiff in error was not guilty of any fraud.

*Third.* The fraud, if any, was committed by Nissley, and he was not the owner. He carried on the business, and under the second count, only the property belonging to him could be forfeited.

The law does not favor forfeitures, especially of real estate; and so careful were the framers of the constitution in this respect, that it is provided that on conviction of the highest offense known—treason—all legislation in regard to such forfeiture was limited to the life estate of the party committing the crime.

The intention of Congress is to be determined from the entire act. Divers penalties are imposed for the different violations of the revenue laws, in some of which the penalties imposed, include the forfeiture of the real estate occupied for distilling purposes, but in none of which is there any provision for the forfeiture of the title of any person other than the person carrying on the distillery, except in the 44th section, and then only when the owner of the fee *knowingly* has suffered or permitted the business of a distiller to be then and there carried on or has connived at the same. The 19th section provides in general terms for the forfeiture, upon such violation by the distiller, of the distillery, &c. What title? Evidently the title of the party committing the frauds, whatever that might be, whether in fee, a leasehold or other estate, but not the interest of innocent parties, perchance minors, married women, or incapable persons. Any other construction of such section would be repugnant to all sense of justice, especially as Congress in the same act provided in what cases the interest of parties other than those directly concerned in carrying on the distilleries should be affected.

## IV.

The fourth assignment of error raises the question as to the correctness of the judgment of forfeiture of such property upon the verdict rendered, it being insisted that, for the reasons above stated, the verdict of the jury, ignoring the third count of the libel, on which the forfeiture of the said real estate rented alone is based, did not warrant such decree.

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# SUPPLEMENTARY BRIEF.

It is urged by defendant in error that the defendant below produced no title on the trial, to the property claimed, and that his standing was, as a claimant, without right.

In the motion of the defendant below, to intervene as claimant and owner of the property he referred to, and make protest of his title and consequent right to make such claim (Record, p. [illegible] ), this question was disposed of on that motion, and it is to be presumed that, upon granting such motion, all questions as to the facts stated in his petition were found true. The order allowing him to intervene as claimant and owner was granted and no exception taken. Furthermore, no objection to his standing as owner in fee was made on the trial. On the contrary it was assumed, both on trial and in the charge of the judge, that he was the owner in fee of the premises sought to be forfeited, and lessor to Nissley, the distiller. The bill of exceptions in this case does not and should not contain all the evidence in the case. It contains, and very properly, only such evidence as is necessary to explain the rulings of the court.

*Lincoln* vs. *Claflin*, 7 Wal., 132–136;
*Penn & Scott* vs. *Douglass*, 2 Peters, 15;
*Zeller* vs. *Eckert*, 4 How., 297;
*Johnston* vs. *Jones*, 1 Black, 209.

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# In the Supreme Court of the United States.

OCTOBER TERM, 1877.

THOMAS S. DOBBINS, PLAINTIFF IN ERROR,
*v.*
THE UNITED STATES.
} No. 145.

IN ERROR TO THE CIRCUIT COURT OF THE UNITED STATES FOR
THE DISTRICT OF IOWA.

***Brief for the United States.***

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## BRIEF FOR THE UNITED STATES.

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### STATEMENT.

Seizure and libel for condemnation of a distillery and real and personal estate used in connection therewith for alleged frauds upon and violations of the internal-revenue laws. The property was seized by the collector of internal revenue at Comanche, Iowa, December 18, 1873, and the information, filed January 19, 1874, alleged the following causes of forfeiture:

(1.) The neglect and refusal of Samuel H. Nissly or other person running said distillery to keep the prescribed books and make true entries therein; and that false entries were made in the same, and there were fraudulent omissions to enter the facts required to be stated with the intent to defraud, and with like intent refused to produce the books kept in the distillery when required by the revenue officers, contrary to the provisions of the act of July 20, 1868, c. 186, § 19 (15 Stats., 132).

(2.) That the distillery, distilled spirits, wine, and distilling apparatus seized were owned by Samuel H. Nissly and an unknown person, and were intended to be used by the owners in the business of a distiller in a manner to defraud the United States of its tax on the spirits distilled, contrary to section 44 of said act (15 Stats., 142–3).

(3.) That the property was used by its owners to defraud the United States of its tax on the spirits distilled, and it was defrauded of part of such tax, contrary to the act of March 31, 1868, c. 41, § 5 (15 Stats., 59, 60).

(4.) That these distilled spirits were held by the owner for the purpose of removal and sale, contrary to the provisions of the act of June 30, 1864, c. 173, § 48 (13 Stats., 240, 241), as amended by the act of July 13, 1866, c. 184; and that the raw materials were to be manufactured into spirits at said distillery to be so removed and sold; and the other personal property was found with these articles, and was used and intended to be used in carrying out this fraudulent design.

(5.) That the barrels, packages, &c., were bought, sold, received, and held by the owner, after the original contents had been consumed, either empty or refilled, and without obliteration of the original stamps and inspection-marks, for the purpose of evading said tax and law, contrary to the act of July 13, 1866, c. 184, §§ 16 and 43 (14 Stats., 152, 162).

(6.) That the liquors were found elsewhere than in a distillery or distillery warehouse, without being lawfully removed therefrom, contrary to the act of July 20, 1868, c. 186, § 35, and were removed at a time and in a manner forbidden by § 37 of that act (15 Stats., 140, 141).

(7.) That the person there carrying on business as a distiller was guilty of various omissions and commissions, contrary to the act of July 20, 1868, c. 186, § 96 (15 Stats., 164; Record, pp. 2–7).

May 29, 1874, Mr. Dobbins filed his petition to be admitted as claimant, which was granted, and he answerd the libel by pleading ignorance as to the truth or falsity of its several charges, and therefore denied them (Record, pp. 30, 35).

At the trial before a jury, Mr. Dobbins took the following exceptions:

1. To the reception of evidence offered by the libellant of "the statements and declarations of said Nissly while under arrest, and afterward voluntarily made, and without threats or coercion, as tending to show a fraudulent intent" in the doing and omitting to do certain acts, as assigned in the libel. Dobbins objected to this evidence "as incompetent and immaterial as against him" (Record, p. 52, top).

2. To the reception of private books, letters, and memoranda found in a building adjacent to the distillery, in a room occupied by Nissly, and used by him as his private office at the time of the seizure of these papers, which books, &c., bore on their face evidence tending to show that they belonged to Nissly, and related in part to the business of his distillery. Among the letters were some from the claimant about a lease of the distillery (Record, p. 52, paragraph 2).

3. To the reception of certain letters so found, purporting to come to Nissly from the firm of Currie, King & Co., of Saint Louis, tending to show the shipment by him to them of large quantities of high wines and liquors not shown in Nissly's books; and of Currie and King's testimony that they received large quantities of high wines from this distillery, which they sold as commission-merchants, and from time to time accounted to Nissly for the proceeds of such sales (Record, p. 52, paragraph 3).

4. To the reception of testimony tending to show the actual production of Nissly's distillery in excess of the quantity accounted for on his books and upon which he paid tax (Record, p. 52, paragraph 4).

5. To testimony of the removal by Nissly of eight barrels of high wines, in the temporary absence of the government officers; and to certain illegal storage of and dealings with such barrels. The claimant contended that these dealings were with the knowledge and concurrence of the officers in charge of the distillery, and, if illegal and fraudulent, could not be set up as a ground of forfeiture; but the court ruled that the complicity of the officers would rather aggravate than relieve the offense (Record, pp. 52, 53).

6. To a refusal to rule that the prosecution could not be maintained unless the libel was filed within the twenty days next after the seizure (Record, p. 53, folio 220).

7. To a refusal to rule that the act of July 20, 1868, § 47, did not apply to licensed distilleries, &c. (Record, p. 53, folio 221).

And thereupon the court, of its own motion, instructed the jury as follows:

1st. That if the evidence satisfied the jury that Nissly made sales of spirits produced by him which he omitted or neglected to enter on his books, with intent to defraud the government, or conceal from the officers the fact of such sales, then he would be guilty, and it would be their duty to find for the plaintiff under the first article of the information.

2d. That although the mere absence of Nissly from the State or the United States is not of itself, as the claimant well avers and claims, evidence upon which the jury could base a verdict for the government, yet if the jury find that he absconded and fled from justice upon being detected and charged with the frauds alleged against him in this case, that fact may be considered by the jury, with other evidence, as tending to prove his fraudulent intents and guilt.

3d. That this is a proceeding to condemn and forfeit to the United States certain property, both real and personal, for alleged offenses against the revenue laws.

The property in question consists of a distillery, with its fixtures and apparatus, and the ground within the inclosure on which the distillery stands, together with the various articles of personal property enumerated in the information before the jury.

Dobbins, the present defendant, is the claimant of the property, contesting the grounds of forfeiture assigned by the government in the information.

That the gist of this proceeding consists in the alleged fraudulent acts and omissions of Nissly or his agent and employés, and whether the charges against Nissly be positive acts done by him, or omissions to do what the law required of him as a distiller, fraud is a necessary element in the case, without which there can be no forfeiture.

That it is unnecessary for the jury to find that the claimant, Dobbins, was implicated in the frauds of Nissly, or that he had any knowledge of Nissly's fraudulent acts or omissions.

If the jury find that Dobbins, the claimant, leased the property to Nissly for the purposes of a distillery, and to carry on that business upon the premises, and that Nissly committed the alleged frauds, the government is entitled to a verdict, even though the jury should be of opinion that the claimant was ignorant of the fraudulent acts or omissions of Nissly.

The government claims a forfeiture under the first, second, and third articles of the information.

The jury will not consider any grounds of forfeiture not stated and as signed in said first, second, and third articles (Record, pp. 53, 54).

To these instructions the claimant excepted. (*Ib.*) A verdict was rendered for the United States upon these articles and a decree of forfeiture entered (Record, p. 51, folio 212).

The first article of the information is based upon the neglect and refusal of Nissly to keep proper books, in the form prescribed, relating to his distilling business, and to produce the same when required, and upon his making false entries therein and fraudulent omissions therefrom; and canceling, obliterating, and destroying said books and entries therein, which acts, by the act of July 20, 1868, c. 186, § 19 (15 Stats., 132, 13), were grounds of forfeiture. The whole section is very long, and it is not deemed necessary to quote that portion giving instructions as to the books to be kept and the entries to be made therein, nor the part requiring their production, upon request. It then proceeds, "And if any such false entry shall be made, or any entry shall be omitted therefrom with intent to defraud or to conceal from the revenue officers any fact or particular required to be stated and entered in either of said books, or to mislead with reference thereto, or if any distiller shall omit or refuse to provide either of said books, or shall cancel, obliterate, or destroy any part of either of such books, or any entry therein, with intent to defraud, or shall permit the same to be done, or such books or either of them be not produced when required by any revenue officer, the distillery, distilling-apparatus, and the lot or tract of land on which it stands, and all personal property of every kind and description on said premises used in the business there carried on, shall be forfeited to the United States." It then provides for the punishment of the guilty person by fine and imprisonment (15 Stats., 133).

The second and third articles were based upon the forty-fourth section of the same act. The first ten lines relate to the infliction of fine and imprisonment upon any distiller, &c., who shall carry on business without having given the requisite bond, or who shall enter upon it with intent to defraud the United States, &c. They are of this purport: "Any person who shall carry on the business of a distiller, rectifier, compounder of liquors, wholesale liquor-dealer, retail liquor-dealer, or manufacturer of stills, without having paid the special tax as required by law, or who shall carry on the business of a distiller without having given bond as required by law, or who shall engage in or carry on the business of a distiller with intent to defraud the United States of the tax on the spirits distilled by him, or any part thereof, shall, for every such offense, be fined not less than one thousand dollars, nor more than five thousand dollars, and imprisoned not less than six months, nor more than two years" (15 Stats., 142, 143). This provision will be only referred to incidentally as to one proposition made and exception taken by the defendant; therefore, we here make a break in the section, which next proceeds to declare a forfeiture in these terms: "And all distilled spirits or wines, and all stills or other apparatus fit or intended to be used for the distillation or rectification of spirits, or for the compounding of liquors, owned by such person, *wherever found*, and all distilled spirits or wines and personal property found in the distillery or rectifying establishment, or in the store or other place of business of the compounder, or in any building, room, yard, or inclosure connected therewith, and used with or constituting a part of the premises; and all the right, title, and interest of such person in the lot or tract of land on which such distillery is situated, and all right, title, and interest therein of every person *who knowingly has suffered or permitted the business of a distiller to be there carried on*, or has connived at the same; and all personal property owned by, or in possession of, any person who has *permitted or suffered* any building, yard, or inclosure, or any part thereof, to be used for purposes of ingress or egress to or from such distillery which shall be found in any such building, yard, or inclosure, and all the right, title, and interest of any person in any premises used for ingress or egress to or from such distillery, who has *knowingly suffered or permitted such premises to be used* for such ingress or egress, shall be forfeited to the United States" (15 Stats., 143).

## BRIEF.

This is a proceeding *in rem.* It claims the forfeiture of the *res*, and is only so far concerned with the acts of Nissly or Dobbins as they are connected with the libeled property and its use in violation of law, and in defrauding the revenue. To paraphrase the language of a district judge in a similar cause, "This is not a proceeding against" Thomas S. Dobbins; "he has intervened in this case, making himself, of his own accord, a party. The proceeding is against this distillery, as a thing forfeited, for being used as a means for carrying on the business of distilling spirits with intent to defraud the United States of the tax on the spirits distilled; and the allegation informing" Thomas S. Dobbins, "who has made himself a party to the proceeding, why his property is forfeited is, that he knowingly permitted the distiller who carried on this business to use this distillery. *As the use was by his permission he must abide the consequences.*" (*Per* Hall, J., in United States *v.* A Distillery, 2 Abb. C. C., 196; The Palmyra, 12 Wheat., 14; The Malek Adhel, 2 Howd., 233, *et seq.;* The Vrow Judith, 1 Rob., 150; The Adonis, 5 Rob., 256; United States *v.* Distillery No. 28, 6 Biss., 487; The Mars, 6 Rob., 87.) A similar course is pursued in the libeling of liquor for forfeiture on account of its being intended for illegal sale. "A stranger to the original process may claim the liquors under the libel; but, if it is otherwise, and the person arrested becomes the claimant under the libel, the matter is entirely distinct from the hearing upon the complaint" (State *v.* Miller, 48 Maine, 581).

The *res* is the offender; but it becomes so, and obnoxious to condemnation, only because it has been, or is to be, used by some person for the purpose of defrauding

(1 Greenl. on Ev., § 169; 1 Taylor on Ev., § 653). Here the statements were used against the property as to which Dobbins and Nissly had a common interest and were in privity with relation thereto, Nissly having hired the premises of Dobbins.

It is like the use made of the declarations of a master and crew in admiralty.

The course pursued by Nissly when arrested for fraudulent dealingswith this property, and also his statements were acts; part of the case. "If a person accused remains silent when he may speak, he does so from choice, and the choice he makes upon such occasions has always been deemed competent evidence. It is the *act* of the party. From time immemorial the reply or the silence of the accused person when charged has been regarded as legitimate evidence on his trial for the consideration of the jury. Any act of his when charged tending to sustain the charge may be proved. Fleeing from arrest, giving contradictory, untrue, or improbable accounts of the matters in issue, and refusals to account for the possession of stolen property, are evidences of guilt admitted upon the trial of the persons accused. These are proofs derived from the prisoner's acts, sayings, and silence" (State *v.* Bartlett, 55 Maine, 217). Treating the *res* as the offender, it must have offended conjointly with some person; the acts and sayings of that person are admissible in analogy to the rule that would receive them if two individuals had jointly conspired to defraud.

## II.

*A fortiori*, must Nissly's books be received as part of the *res gestæ* of the transaction of the very business of this distillery, &c., whereby the United States were defrauded. (See United States *v.* Mason, 6 Biss. C. C., 350, 354, *et seq.*) The lease from the claimant to Nissly showed that he suffered, permitted, and connived at the carrying of the distillery business upon and with the property, real and personal, which he now claims (Cliquot's & Fennerstein's champagne, 3 Wall., 114 and 145).

## III.

The other letters objected to were admitted because of their direct tendency to prove fraud in the keeping of Nissly's books, and in the conduct of his business.

## IV.

If the government could not show by other evidence that the quantity of spirits produced exceeded that returned and stated upon the books, it would be impossible ever to show any fraudulent omission from the books, and the crime made penal by statute would go unpunished by the exclusion (not the want) of proof.

## V.

The connivance of an officer in a distiller's fraud would, as the court said, be but an aggravation of the offense. It is the United States, and not the gauger, storekeeper, or assessor, that is defrauded; and the fraud is rendered more flagrant by one of the officers being induced to become a party to it and a coconspirator against the government. Hart v. U.S., No 98 of present term.

## VI.

Another exception is to the judge's refusal to charge that "§ 47" (meaning § 44) of the act of 1868 applies only to illicit distilleries carried on without a license or bond (Record, p. 53).

This objection is refuted by the plain language of the act, which reads thus (15 Stat., pp. 142, 143), as before quoted: "Who shall carry on the business of a distiller without having given bond as required by law, OR *who shall engage in or carry on the business of a distiller with intent to defraud the United States,*" &c.; and then goes on to impose a forfeiture in either of these cases.

## VII.

The next exception (Record, p. 53) is to the judge's refusal to charge that, the seizure having been made December 18, 1873, and the libel not being filed till February 11, 1874, the prosecution was barred by the proviso in § 25 of the act of 1867 (14 Stat., 483). That section declares a forfeiture and penalty for neglect or refusal "to do or cause to be done any of the things by law required to be done concerning distilled spirits;" and it is then "*Provided,* That proceedings to enforce said forfeiture of said property shall be commenced by such collector within twenty days after the seizure thereof. And the proceedings to enforce said forfeiture of said property shall be in the nature of a proceeding *in rem* in the circuit or district court of the United States for the district where such seizure is made, or in any other court of competent jurisdiction."

This proviso as to time is directory. There was no proof, nor reason to believe, that the collector did not seasonably comply with it. It was not his duty to file the libel, but that of the district attorney, with whom the collector, within twenty days, lodges his statement of the property seized and of the causes of seizure.

Anybody can seize for forfeiture to the government (Gelston *v.* Hoyt, 3 Wheaton, 246; Wood *v.* United States, 16 Peters, 342; Taylor *v.* United States, 3 Howard, 397). This section, even as to the particular prop-

The present information does not
[illegible] [illegible] demand a forfeiture
for causes mentioned in said
§ 25. See Conkling's Treatise,
[illegible]

erty and causes therein mentioned, does not profess to confine the right to the person of the collector, nor to impose that duty upon him alone. The property vested in the United States as of the date of the offense, after its commission was proved. If adjudged forfeited, and that title passed at that time, the claimant cannot be said to have suffered if thirty or forty days elapsed between the seizure and the filing of the libel; though, if he thereby sustained injury, he might, perhaps, recover on this account of the collector.

The bar claimed is a statutory limitation, which, in all cases, it is now settled, must be specially pleaded (Angell, Limitations, §285, and cases cited).

Even if it were conceded that this rule applies only in civil cases, the answer is obvious that the proceeding now in question is a civil case. It is not a criminal suit against the distiller, but a mere proceeding *in rem* to which the distiller is no longer a party, for a forfeiture of property claimed by Dobbins, founded, not on the allegation of any criminal act or intent on his part, but on certain positive statutory provisions. It is thus no more a criminal suit than would be an action of debt on a statute (Taylor *v.* United States, 3 Howard, 397; United States *v.* 3 Tons of Coal, 6 Biss., 379).

The section containing the proviso in question has no reference to the property now in litigation. It applies, and applies only, to "a still, boiler, or other vessel used in the distilling of spirits"; to "all the spirits made"; to "all the vessels used in making the same"; and to "all materials fit for use in distilling found on the premises."

Now the official list of property appraised and delivered to Dobbins agreeably to his petition (Record, pp. 41–43), makes no mention of any of these articles, though it specifies the real estate claimed, and various articles of personal property more or less connected with the business of the distillery. It is true that in his petition for the delivery of the property (Record, p. 30), Dobbins mentions "stills," "wash tubs," and "boiler." But his mere *ex parte* statement that these particular articles were his property cannot be regarded as establishing the fact, especially in view of the appraiser's official list, which makes no mention of them.

## VIII.

The sum and substance of the charge was that the property could only be forfeited for some fraudulent acts or omissions of Nissly; and whether Dobbins was cognizant or ignorant of them would make no difference, even as to his interest in the property, if he leased the premises to Nissly for a distillery, and suffered, permitted, or connived at the use of the property by Nissly in the distilling business.

The statute places "an owner using the premises as a distillery himself, and an owner voluntarily permitting his premises to be used as a distillery, or conniving at such use," on the same footing (United States *v.* Distillery, &c., 11 Blatchf., 266, *et seq.*; Burroughs on Taxation, 670).

The property is pledged or hazarded to abide the consequences of the line of conduct the occupant may adopt. To this extent he becomes the representative of the owner of the property, who is, therefore, to the same extent affected by his acts and admissions or declarations; or, certainly, by his fraud.

EDWIN B. SMITH,
*Assistant Attorney-General.*

## In the Supreme Court of the United States.

OCTOBER TERM, 1877.

THOMAS S. DOBBINS
*vs.*
THE UNITED STATES.
} No. 145.

ERROR TO UNITED STATES CIRCUIT COURT, DISTRICT OF IOWA.

*Additional Brief of ~~Plaintiff~~ Deft in Error.*

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## ADDITIONAL BRIEF OF ~~[illegible]~~ Deft IN ERROR.

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## BRIEF.

The original brief for the United States was printed before the plaintiff in error had filed one. A few words in reply are now offered.

### I.

The citation from Wharton's Criminal Law found at top of the fifth page of plaintiff's brief would be pertinent, if the statements of Nissly had been offered upon an indictment against Dobbins; but had the cause in which the language cited was used been a libel against the vessel as a slaver, the phraseology would not have been employed, or would have run counter to the whole current of decisions. In cases of capture, &c., not only are the declarations of the master and *crew* taken against the vessel, together with all papers found on board, but it is *required* that the statements of the officers and men be taken and filed *in preparatorio* and opened after hearing the cause. (Isla de Cuba, 2 Cliff., 301.)

The present proceedings are civil and not criminal in their nature. (Taylor *v.* United States, 3 Howard, 197; Cliquot's champagne, 3 Wall., 145, top; United States *v.* Three tons of coal, 6 Biss., 379.)

The mere seizure of the property was no dissolution of Nissly's lease, nor of his connection with the property; nor any bar to its possession, if restoration were ordered. As against the property, then, his declarations were admissible. He and Dobbins still had the same privity in relation to it as before.

The fundamental error is in assuming throughout that these were proceedings in which Dobbins was the defendant. The very title of the cause indicates the fact. "United States against Lot 1, Block 2, in Comanche, Iowa, defendant." (Record 30, folio 129, and *passim.*) Dobbins comes in as claimant, not as defendant; that is, it is the dealings with the property and not his individual innocence or criminality that are put in question.

## II.

The foregoing remarks answer the claimant's second point. It may be added that we are to assume that the contents of the letters, &c., were such as made them admissable and pertinent. As to the Currie and King letters, as well as the others, it was *the possession and* *preservation of them by Nissly* that was important, irrespective of their genuineness, or of the actual truth of the statements they contained.

## III.

Assuming that the effect of the clerical error in the record is to confine the government to the first and second counts, we do not see how the general language of the act of July 20, 1868, c. 186, § 19 (15 Stats., 132, 133), can be conceived to demand the forfeiture only of the distiller's own property. It expressly declares the effect of fraudulent entries and omissions to be the forfeiture of "the distillery, distilling apparatus, *the lot or tract of land on which it stands*, and *all* the personal property *of every kind and description* on said premises," &c. (See page 7, top, of my former brief.)

Nor is such the construction of section 44, upon which the second count is based. This is set out in my former brief, pp. 7 and 8. It forfeits the property of the distiller and of everybody who has suffered or permitted their property to be used in his business, or connived *at such use*, not at the fraud.

The exceptions do not raise the question of Dobbins' *written* consent; therefore the residue of plaintiff's argument upon his third point is immaterial. His lease of property fitted only for distilling purposes was of itself consent to the use made of it. Everything not excepted to is supposed to be properly and sufficiently proved. It may be observed, however, that all these provisions about consent, bond, &c., are for the benefit of the government, and nobody else can claim an advantage by reason of a failure to observe them, as was fully argued and decided in Hart *v.* United States, No. 28 of this term, to which and citations there made reference may be had.

## IV.

As under our view, sustained by repeated decisions the connivance is only at the business in which the property is employed, and not at any fraud, and the realty is forfeited under the verdict upon the first and second counts, no remarks are called for as to plaintiff's fourth point.

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